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Rachel Dombrowski, Clerk
Appellate Court of Maryland
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descends to the creek, similar to the proximity of the route to the other identified tracts.

Where the first line then crosses Antietam Creek, 165 feet from our arbitrary starting point on the west side of the creek, there remains a road trace, preserved due to later intra-farm use. It leads from the identified Conococheague road, north along the creek to a point where it used to dip to the water's edge before continuing on. If this was merely an access road to fields on that side of the creek (the creek bisects the 19th century farm), why would it dip to the water's edge while the rest of the road lies on higher ground?

This could be the early crossing. We see the same sort of dog-leg in the period Swearingen Ferry road where it crossed the Antietam and Potomac. Most interesting though is a letter from Maryland colonial Governor Horatio Sharpe to Sir John St. Clair, commissary general of the British army in North America. In 1758 they were corresponding concerning bridging Licking Creek farther west as yet another road improvement operation during that year's Forbes expedition.[64]

"I suppose it might be supported on Triangular piers made with logs & filled with stones as is that which was made over Antieatum when General Braddock marched that way but I understand the piers must be made 12 or 15 feet high from the foundation." Sharpe to St. Clair, Ft. Frederick 25 June, 1758

We know Col. Dunbar's regiment of Braddock's army as well as a month-long ferrying of supplies from Rock Creek to Conococheague crossed the Antietam near this place in May 1755.[65] From Sharpe's letter, we can be sure a bridge was built to facilitate that movement. Possibly the first bridge ever to cross Antietam Creek. Sharpe's mention of piers 12 to 15 feet high for the Licking Creek bridge suggests the ones on the Antietam were shorter. The banks on both sides of the creek at this place are relatively lower than above or below. A bridge would not have to be as high at this point.

We can be certain the road, and half of Braddock's army did cross within several hundred feet of the present bridge on Keedysville road. Just as we can be sure they walked Dog Street road from Fox's Gap. We can be relatively sure they walked Mount Hebron road and passed through what would eventually become Keedysville.

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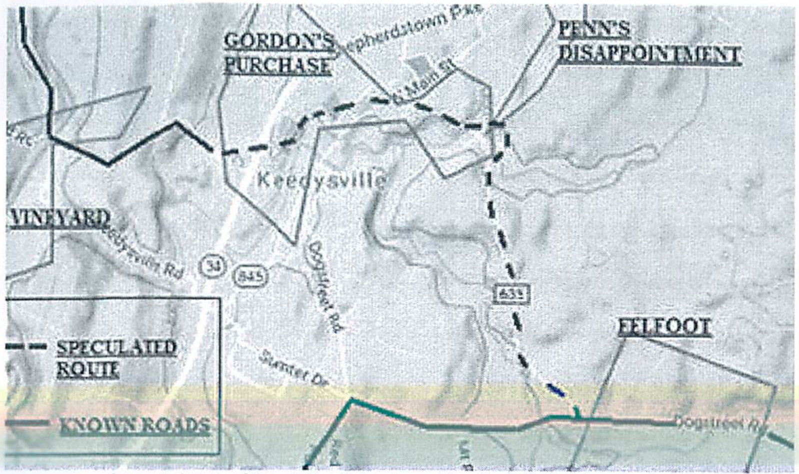
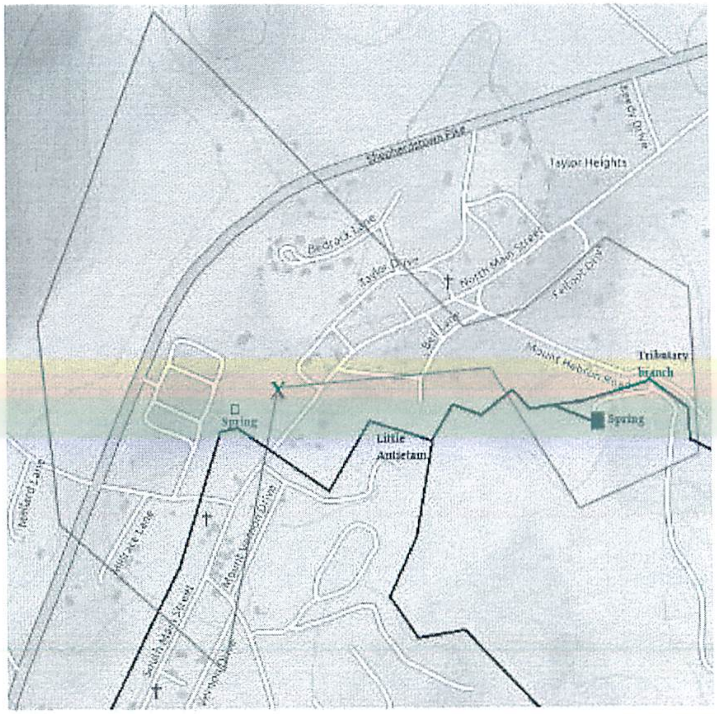
[64] Maryland Archives, Correspondence of Gov. Horatio Sharpe

[65] BRADDOCK'S DEFEAT: David L. Preston

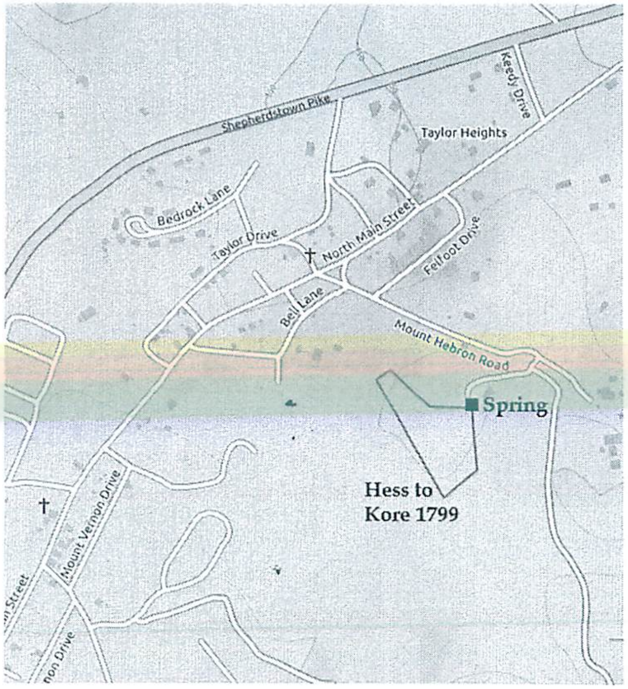

GORDON'S PURCHASE
Shepherdstown Pike
N Main St
PENN'S DISAPPOINTMENT
Keedysville
VINEYARD
Keedysville Rd
34
845
Dogstreet Rd
635
SPECULATED ROUTE
KNOWN ROADS
Sumter Dr
FELFOOT
Dogstreet Rd

Suggested route of the missing link between Dog Street & Antietam Creek
demonstrating use of terrain


Shepherdstown Pike
Taylor Heights
Bedrock Lane
Taylor Drive
North Main Street
Felfoot Drive
Bell Lane
Mount Hebron Road
Tributary branch
Spring
Spring
Little Antietam
South Main Street
Mount Vernon Drive

Gordon's Purchase, 1739
"On a stoney knowl within 100 yards of Little Andietom near a spring called the middle spring"
(Placement of creeks approximate)

The configuration of Gordon's Purchase seems odd, but many land developers sought to monopolize prime water sources to increase the value of their acreage limited grants. Gordon's Purchase embraces two prime springs, what was some of the best agricultural land in the immediate area, and what is speculated to have been a natural mill site, later developed by Hess. It is only speculation but could easily explain this otherwise odd shaped tract where there were no neighboring parcels.



This tract allows us to place Gordon's Purchase with reliable certainty. - Jacob Hess to John Kore, "…all that part of a tract of land called Gordon's Purchase situate being and lying in the County and State aforesaid, beginning for the said part at the end of thirteen and one half perches on the second line of a tract called Gordon's Purchase and running with the outline thereof South thirty three degrees, east fifty five perches and one half perch, North fifty degrees east fourteen perches and eleven links to a stone then North five degrees west twenty one perches to the head of a large spring known by the name of the big spring and running thence down through the middle of said spring run North eighty eight degrees and one quarter of a degree west seventeen perches and still through the middle of said run North forty eight degrees west eighteen perches then by a straight line to the beginning…"

Chapter Five - Conclusion

The migration of the so-called Pennsylvania Germans between 1760 and 1790 resulted in explosive development in the areas where they settled. A real estate boom very similar to the one of the last thirty years. These two events actually have much in common. Both saw huge increases of the population. Both saw new houses built where there had previously been none. Particularly though, both saw a corresponding mushrooming in the number of roads.

Except for the continuing improvement projects, virtually all of the local road network was in place by 1850 until the more recent influx. The most notable changes in the roads between 1850 and 1980 was the abandonment of lesser used routes. Since most of these roads remained in use well into the 19th century however, we have good references for most, with the regrettable exception of the one passing through the town of Keedysville prior to the town's late eighteenth century development.

As mentioned earlier, several old deeds refer to "the road to Hess's mill" from the Eakle's Mill and Mount Briar area. This road from Gapland to Dog Street is assumed to be more or less the original path from Crampton's Gap towards the Antietam. It went straight across Dog Street on a now nearly lost track. Several old maps show this road directly opposite Mount Briar road's intersection with Dog Street. The road followed the west side of Little Antietam, just as Mount Hebron road follows the east side. The old road connected to Antietam Drive near its present dead end, formerly along the B&O rail road tracks. The following map shows the now lost road which leads from this one, and by Hess's mill to his bridge. Evidence of this road is still visible today.

This route fit's the pattern of following topography for the gentlest slopes and avoiding stream crossings were possible. In fact, this route parallels the course chosen by the 1868 B&O construction engineers in siting the rail road grade for minimal changes in elevation. This route would have been through Hess's land for much of its course from Dog Street. Why then wouldn't this be the route of the Conococheague road? This may be very generally, the course of the Indian road, the foot and bridle path from William Park's 1731 Park Hall. The petition to the court in 1760 confirms it as a horse path at that date, which in itself rules it out as our pre-1748 wagon road.[66]

It would still have had to cross the mainstem of the Little Antietam to reach Antietam Creek. As well, this road passed through Rev. George Geeting's land on the Dog Street end. Passing right by Conrad Snavely's house. If it had been the main road, just as with the present road passing Geeting's house, why would Geeting have located his church on Mount Hebron road, on an isolated part of Snavely's land?

It's more plausible this was the original route of the Indian road. The foot and bridle path used before the wagon road to Conococheague was established. More research is needed to pinpoint dates and other possible evidence, but as that earlier route was already on the west side of Little Antietam and especially since it was not a wagon road, a ford in the middle of present Keedysville would have been

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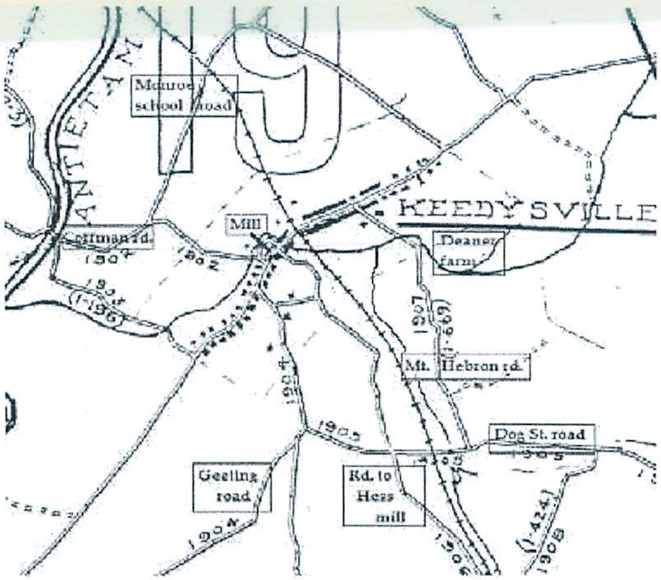
[66] See discussion on page seven.

inconsequential. Hess's bridge on this route would not be built until at least three decades after the Conococheague road had been established as the wagon road west.

When the Philadelphia Wagon Road located through Fox's gap, it reached Little Antietam from the east side. It had to cross the creek to reach the Potomac. Branching the Conococheague Road out of the wagon road before the Little Antietam, to cross the much smaller tributary is perfectly logical from that perspective.



Portion of a 1936 Washington County roads map of the Keedysville area,
from Washington County courthouse records.
(single dashed line is old town limits boundary)

As with any investigation, personal inspection of the site and physical evidence is preferred. More than 260 years of human and natural alterations of the land has affected this potential evidence to the point of near obliteration. Access to sites on private property can present another obstacle. All we are left with at this late date are bits and pieces of circumstantial evidence.

I am convinced the circa 1748 Conococheague road was by Mount Hebron road, then more or less to the beginning tree of Gordon's Purchase at the Keedy / Taylor farm by a course lost to the development of the town. From the Keedy / Taylor farm, through Fairview Cemetery and somewhat diagonally to the old trace leading from Coffman Farm road to the Hitt bridge on Keedysville road. Some of the evidence is substantial. Some is very sketchy. It is certain this particular route in its entirety, probably didn't last more than a few decades before alternative routes found favor after the outbreak of the French and Indian War and the influx of (mostly) German settlers after hostilities had mostly ceased.

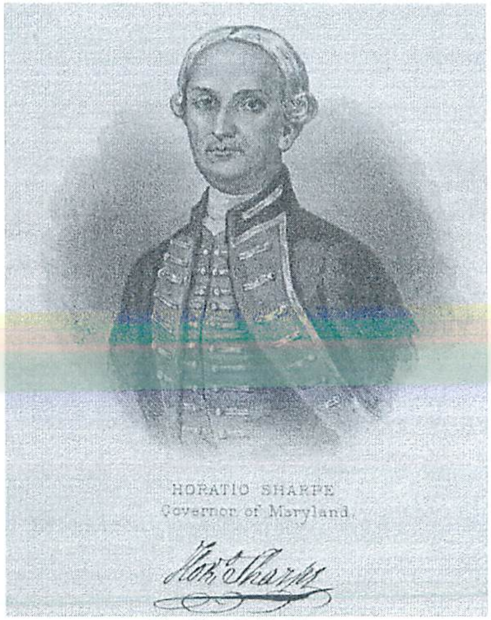
We know the primary route west shifted about 1758 with the opening of the Fort Frederick road through Boonsboro, a decade after the Frederick County court's first mention of the Conococheague road. From roughly 1750 to 1850, smaller and smaller tracts of land were continually being established and the new roads linking them spread like a spider's web. Some of these new roads superseded older ones just as the new road to Fort Frederick had superseded the Conococheague road, and the 1748 Conococheague road superseded the earlier native path.

Three prominent men of colonial Maryland, possibly united by their common heritage as Scotsmen and the region where they lived present a pattern of association that has become familiar. The German immigrants of several decades later took it to the next level, transforming what was essentially a wilderness crossroads into a settled community and prosperous town.

The 1755 Braddock expedition was the most notable use of the Conococheague road and the original motivation for my search. Sparse and incomplete records offer only small glimpses into the mystery. Very little identifiable physical evidence remains after more than two hundred and sixty years. As important a role as this road played in early settlement and defense of western Maryland, the extremely short duration of its period of prominence and the lack of prior wide-spread interest in this portion of Braddock's route have inescapably shrouded it in mystery.

In contrast to the title of this chapter, there is no conclusive evidence of my theory. It remains pure speculation based on the best evidence available. This anti-climactic ending at first makes the whole of the research seem a waste. It is however, the unintended discoveries, stories and connections turned up along the way that may ultimately be its true value.

Chapter Six – The road not taken



New York Public Library

"Monday 21st we went over in a canoe and travell'd up Maryland side all day in a continued rain to Collo. Cresap's right against the mouth of the South branch about 40 miles above Polks, I believe the worst road that ever was trod by man or beast"[67]

Numerous histories of the Braddock expedition bemoan the lack of a direct Maryland route from Conococheague to Ft. Cumberland, as well as the impracticality of the anticipated use of the Potomac to convey supplies by water.

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[67] George Washington on his 1748 "Journey Over the Mountains", from "The writings of George Washington from the original Manuscript Sources 1745 – 1799"

For those unfamiliar, Braddock's two regiments were separated for the trip west to Ft. Cumberland. The 44th regiment under Sir Peter Halkett traveled from Alexandria to Winchester Virginia. The 48th regiment under Col. Thomas Dunbar, landed at Rock Creek in Maryland and marched north of the Potomac to Conococheague. From Conococheague, the 48th regiment turned south to take the same road as Halket's 44th regiment from Winchester to Cumberland. Following the meetings in Fredericktown that April, Braddock and his personal entourage, including aide de camp George Washington used the Philadelphia road and Swearingen's ferry to reach Winchester ahead of the 48th, where the general anticipated meeting with a contingent of Catawba and Cherokee allies.

Colonial Governor Horatio Sharpe of Maryland, was a military man in his own right, the commander of British forces in North America prior to Braddock's arrival. He has taken considerable blame for what seems on the surface a great mistake in planning. He has been the recipient of later historian's insinuations and outright claims of incompetence or blatant self-promotion of his colony by encouraging the Maryland route, which has repeatedly been reported as not extending beyond Conococheague. Thus, requiring the 48th regiment's detour south to the Virginia route. This claim comes in part from a single sentence from the journal of Capt. Robert Orme. Specifically, **"As no road had been made to Will's Creek on the Maryland side of the Patowmack, the 48th regiment was obliged to cross that river at Conegogee, and fall into the Virginia road near Winchester.**"[68]

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[68] Pg. 308, The History of an Expedition Against Ft. Du Quesne In 1755, Winthrop Sargent

Perhaps it's a touch of pride as a seventh-generation Marylander and Sharpe being the namesake of my adopted hometown that moves me to his defense. It was the Braddock expedition that captured my attention as a young boy resulting in my interest in this period. An interest, which has motivated me to research it off and on for more than four decades. Governor Horatio Sharpe's supposed mistakes, like Braddock's, have been misrepresented and blindly repeated as fact for generations.

As we saw early in this book, the Maryland authorities had in fact ordered the laying out of a road "from Conococheague by Hugh Gillilan's" in 1748 at the same time they ordered the road from Conococheague to Moses Chapline's. Other research for this book has shone a clear light on the fact that a direct route from Rock Creek to Oldtown and Cumberland did exist, at least a decade prior to Braddock's mission.

Hugh Gilliland, we know from the land records, lived in the vicinity of Big Spring Maryland about ten miles west of Conococheague. This is on the road that would in several more years lead to Ft. Frederick[69] after it was built in 1756-1757. This indicates it as a road of importance to westward travel. Certainly, the road to western travel through Maryland. The state is not very wide between the (West) Virginia border at the Potomac River on the south and the Pennsylvania border on the north in this part of Maryland. See the attached map prepared by Thomas Cresap illustrating the "Northern Bend of Potomac" as today's Hancock area was called at the time.

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[69] Roughly along Maryland route 56 / Big Pool Road

There was considerable concern expressed in correspondence between Sharpe and Lord Baltimore while waiting for Cresap to furnish this map due to the ongoing dispute with the Penn's over Maryland's northern boundary. The Octoro Line, backed by the Penn brothers, would have intersected the Potomac near where U.S. Rt. 40 joins Interstate 70 today, between Big Pool and Hancock Maryland. This is seven miles east of Hancock. Seventy-five miles east of Maryland's western boundary and four miles south of the Mason-Dixon line, for the entire length of the state. There was a lot at stake in establishing that the temporary line passed north of the Potomac.

The colonial government was eager not only to establish ownership, but to settle people on this land, both as a revenue source as well as to guard against future encroachment by neighboring colonies. The western boundary of Maryland was in dispute with Virginia and particularly, Lord Fairfax. A dispute that would not be fully settled until 1910. Maryland could not afford to take a chance on losing more territory to encroachment by her neighbors.

The other road ordered by the court in 1748, the road "from Conococheague into the road by Moses Chapline's" was obviously completed since it was the route used to reach Conococheague by Col. Dunbar's regiment and even proclaimed a good road.[70] Braddock himself used the Swearingen Ferry road portion of the Philadelphia road from Frederick to reach Winchester following the planning meetings held at Fredericktown that April. We must assume the western road ordered at the same time was also established as reported by the road supervisors.

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[70] "...this day we passed the south ridge or Shannadah Mountains, very easy in the ascent, We saw plenty of Hares Deer and Partridges." The seaman's journal of the Braddock Expedition

While Washington seems to condemn the road in 1748, that was in early March. His journal indicates it had been raining incessantly for days and as he mentions in a previous entry, this torrential rain was melting the snow in the mountains. These were mountains which this road passed through. It had been raining for days. Being March it can be assumed this was a miserably cold rain and it rained hard the whole trip from Polk's (Hancock) to Old Town. There were no waterproof fabrics or synthetic insulations in 1748. It's easy to imagine that it was the weather conditions and perhaps their impact on the traveler, as well as on the dirt road that he may have been referring to, rather than the actual road itself. We can at least accept from his writings however, that a road of some description did exist.

Earlier in this work we saw a 1743 petition by the residents of the western parts of Maryland for a road from the Conococheague ferry to Col. Cresap's.[71] The request justified the need by declaring it already being a route frequented by travelers at that early date. This certainly indicates some sort of road or path already existed from Conococheague to Oldtown, as well as it being well used. We can safely assume it was a wagon road as a footpath would not require improvement by the government and the court's action specified ferry tolls for wagons using the route. Various existing records refer to this western road as the road to Col. Cresap's[72], The Virginia route led to Col. Cresap's Oldtown outpost as well, confirming a road from there to Cumberland.

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[71] Prince George's Co. court, Book 14, Liber AA, page 480
[72] Col. Thomas Cresap's home and trading post at that time was near the confluence of the north and south branches of the Potomac.

References to "the aligain road" and other descriptions clearly indicate some road from the Washington County region west certainly did exist. The following is one example from 1743. **On the side of a hill near a small branch that falleth into Little Conoloway and on the left hand side of the main road that goeth from the little Conoloway to the Old Town and near where the said wagon road crosses Conoloway Hill.**[73]

We find several important indicators in this description of a tract surveyed by Peter Dool for Colmore Bean. He mentioned both the main road that "goeth from Conoloways to the Old Town," as well as later referring to the same road as a wagon road. We also have the previously mentioned land description for Capt. George Beal's Long Life to Lord Baltimore near Big Pool in 1738. That tract being identified as within ½ mile of the wagon road. Big Pool is approximately midway between Williamsport at the mouth of the Conococheague and Hancock at the northern bend of Potomac. As Braddock used the road between Old Town, and Ft. Cumberland, we know a wagon road existed there. Further, it was proclaimed an easy march in the various accounts of the mission.

Perhaps most importantly, Cresap was a tenacious, long-time Maryland advocate. He had led a border war with Pennsylvania in defense of this colony in the 1730's, narrowly escaping being hanged for his defense of Maryland. He had family and business interests at Conococheague and elsewhere in present

Washington County.[74] He was a prominent investor in and promotor of The Ohio Company, which sought trade and lands west of the Alleghenies. An enterprise that arguably sparked if not at least fanned the flames of the whole controversy that became the French and Indian war. It's impossible to imagine Cresap not making sure there was a MARYLAND travel and supply route to his personal western interests, as well as the Ohio Company storehouse and base of operations at Will's Creek (Cumberland). Cresap and company simply would not move to these isolated Maryland lands without a lifeline to the infrastructure and government of Maryland.

"I have only agreed for six wagons with four horses and harness, to each to be delivered... to be employed two of them drawing timber for the fort or otherwise as found expedient, & the other four to be employed in carrying up to Conegogeek the stores that now are or may be landed at Rock Creek, but I will contradict the orders I left, that they may be employed between Winchester & Will's Creek since you prefer that rout, tho from the observations that I had an opportunity of making by journeying to the camp by one way and returning the other I am satisfied that you will find the carriage thro Winchester much more expensive than on the north shore of the Potowmack, especially if you take into the account the charge of building such a number of boats & opening a road as you propose to shorten the distance by way of Winchester..." Gov. Sharpe to (VA) Gov. Dinwiddie, 26 Dec. 1754[75]

It's not sure where or when the decision to use the Virginia route was made, but it was obviously being discussed before 1755. Long before Braddock and the

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[73] 1743 land tract description for the starting point of Colmore Bean's Colmores Ramble, from the Arthur Tracey collection. Conoloway was the historic name of what today we call Tonoloway. Great (or big) Tonoloway Creek is on the east end of the town of Hancock. Little Tonoloway creek is on the west end. Tonoloway Ridge is about three miles west of Hancock.

[74] Col. Thomas Cresap's son lived at Conococheague and is said by some sources to be charged with overseeing the supply of Braddock expedition stores from Conococheague to Ft. Cumberland.

[75] Maryland archives, The letters of Governor Horatio Sharpe

army had landed in North America. Before most of the army had left Europe in fact. Most importantly though, this correspondence makes it perfectly clear that Governor Sharpe was agreeable to the Virginia route even though he felt it was the less expedient of the two.

> "All here are well & we have a good look, we shall be moving soon, part by Frederick. I have undertaken to cut the road by Enochs"
>
> Sir John St. Clair to Gov. Sharpe, Alexandria, 28 Mar. 1755

With this correspondence St. Clair, the planner is apprising Sharpe that the route will be by the new road from the vicinity of today's Clearbrook Virginia, north of Winchester to Enochson's on the Cacapon River. There it took up the existing trader's route from Winchester to the South Branch of the Potomac, the Kahundoa of the Seneca[76]. He advises as well that he has planned to send part of the army by Frederick.[77] Finally, it tells us that as late as several weeks before the army would travel it, the new road through Virginia was only then being cut.

The often-maligned water route, via the upper Potomac bears a bit more examination as well. I've lived literally on the banks of this river for most of my adult life. I have plied it in large stable boats and frail, lightweight canoes. I've waded and explored its waters and marveled at its past. The much later C&O Canal parallels the Potomac's course for 185 miles. As it happens, from Col. Dunbar's first Maryland destination at Georgetown, to Dunbar's last Maryland destination at

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[76] Pg. 20 Colonial Records of the Upper Potomac, Vol. one, William H. Rice

[77] St. Clair uses the name Frederick on several occasions in reference to the Maryland town then normally called Fredericktown.

Cumberland. There was even an earlier commercial water route that existed on the Potomac River proper, well before the better-known canal.

The Patowmack Company sought to make considerable improvements in the river channel to provide for reliable, any-season transport by boats carrying as much as several tons. However, it wasn't formed until 1785, a full thirty years after the Braddock expedition. Before the Patowmack Company's entry however, there is no question freight was moving via the Potomac.[78]

We see frequent mention of Potomac River travel sprinkled throughout the early records, including Gov. Sharpe and Sir John St. Clair canoeing it themselves in their reconnoiter of early 1755.

> **"we set off to explore Potowmack River which proved from the number of shoals and falls to be of no service in transporting either artillery or other baggage…"** Sharpe to Braddock, 9 Feb, 1755

Sir John St. Clair, quarter master general[79] of Braddock's army, rendezvoused with Gov. Sharpe at Ft. Cumberland in the winter of 1755 to strategize the expedition several months before the army landed in America. He had traveled to Ft. Cumberland by the Virginia route and returned along with Sharpe by canoe on the Potomac. While not personally (as far as we know) having traveled the road between Cresap's and Conococheague, these two waypoints are right on the river and would have no doubt been surveyed along with other stops on the canoe trip east. This we can be sure of from Sharpe's further mention in his February 1755 letter that, "Sir John contracted for all the forage flour and calavances on the banks of that river"[80]

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[78] See Potomac Journey: Fairfax Stone to Tidewater, by Richard L. Stanton and Navigation on the Upper Potomac and Its Tributaries, by Dan Guzy

[79] In the United Kingdom, the Quartermaster-General was one of the most senior generals in the British Army, holding a logistics appointment.

We can be sure that even if he hadn't personally traveled it, Sir John had acquainted himself with the country. Likewise, in spite of Sharpe and St. Clair's assessment, the river was used both for personal and commercial transportation in its natural state before 1755, and well before commercial companies tried to improve and monopolize it. **"the most convenient Passage will be into Potomack River which is Navigable by the largest Ships within ten Miles of the Falls. The Company's Store house at Rock creek where they may land and have their Goods secured is sixty miles from Conococheege, a fine road from whence they may go by Water in the Company's Boat to their Store house at Wills Creek about forty miles and from thence the Company have cleared a Waggon Road about sixty miles to one of the head branches of the Ohio navigable by large flat bottomed boats where they propose to build Storehouses and begin to lay off their Lands."** [81]

Another letter, though slightly after the period of interest, reinforces this regular use of the natural river for transport of goods by those living along the Potomac. "Mecklensburg[82], Jan 19, 1779... I have spoke to Nate Tomson to get a canoe made by spring which will carry forty bushels to Fort Cumberland...."[83]

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[80] Sharpe to Braddock, The Correspondence of Governor Horatio Sharpe, 9 Feb. 1755, Maryland Archives

[81] Letter to Thomas Lee, dated August, 1754 regarding operations of the Ohio Company, Writings of George Washington from the Original Manuscripts 1745-1799. We see here yet another contrivance of the word "road," this time used to refer to a water route.

[82] Mecklensburg was the original name of today's Shepherdstown, West Virginia.

[83] At the conservative estimate of 50 pounds per bushel, this would be a cargo of one ton. David Shepherd Papers, vol. 1, "A History of the National Conservation Training Center Property and surrounding area" by Dan Everson

St Clair was a thoughtful planner, but his considerable reputation could be at stake. The failure of this venture could potentially be blamed on him for failing to prepare for the advance, and that thought certainly had some influence on his decisions and recommendations. His entire career was dependent on his reputation as a military officer. He had reconnoitered the entire region. Traveling well over a thousand miles on horseback and close to 100 miles at least, by canoe through the midst of the winter from Jan. to April,1755. He had already encountered numerous obstacles to the success of the expedition, which by all accounts caused him considerable stress.

It is only speculation on my part, but I can picture Sir John considering this dilemma of how to get 2000 men, their equipment, weapons, ammunitions and supplies from the sea coast to this still unseen, distant wilderness destination of Ft. Duquesne in a battle-ready condition, while preserving his reputation. He had already discovered the difficulties that would hinder Braddock in obtaining logistical support from Maryland's reluctant colonial legislature and stubborn colonists in spite of Gov. Sharpe's best efforts. [84]

The road west from Conococheague did exist, but was undoubtedly one that would require some improvement for the passage of such a large army. There are records in fact for it being improved four years later during the Forbes expedition, which was finally successful in driving the French from Ft. Duquesne. However, the original road from Winchester to Cresap's, which they did use, required cutting and rebuilding in advance of the army as well. Journals of the expedition complain daily about the road conditions on the Virginia route even after it had been so recently improved.

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[84] See "Maryland's Share in the Last Intercolonial War, A.M. Schlesinger," pages 120-132

At the Conococheague during that winter canoe trip, if not before, St Clair certainly noticed that the now prominent Valley Road was not only a very good wagon road, but had an established ferry and was a very well-traveled route to Winchester from a proven reliable supplier - Pennsylvania. It's easy to grasp his decision to direct the 48th regiment south on this road from that point, – a two-day march[85] - rather than waste time improving two roads to the same destination.[86]

So why the Maryland route at all one may ask. There could be several reasons. First and foremost is the strategic location of the magazine or storehouse at Conococheague. Located not only on the Potomac, a possible supply route to the west (at least in favorable conditions) but on two prominent supply roads. The road from the east via Frederick, and as would prove more important, the road from the north and Pennsylvania.

The Pennsylvania road would ultimately provide not only commodity supplies, but more importantly, the bulk of the scarce horses and wagons so desperately needed. It would also ultimately provide the route of Dunbar's retreat with what would remain of the army by the end of July.

An additional consideration may have been the all-important time necessary to project an enormous expedition deep inland as quickly as possible. They not only had to reach the remote Ohio, but anticipated a siege action once arriving. They had only a few months in which to succeed before the next winter would force withdrawal if unsuccessful in dislodging the French.

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[85] While it actually took three days, the regiment was given a rest day between Conococheague and Winchester. This was established practice every fourth day of marching. The actual distance however, was a two-day march.

[86] More on the military reasoning for the dual routes can be found in "On Campaign Against Fort Duquesne: The Braddock and Forbes Expeditions, 1755-1758, through the Experiences of Quartermaster Sir John St. Clair" by Douglas R. Cubbison, particularly on pg. 58

Winchester, via Rock Creek, Fredericktown and Conococheague was a six-day march[87], but by using both routes simultaneously, both columns arrived at Winchester earlier than if they had all been lined up on a single, one-lane road. This type of congestion has been the bane of armies throughout time. On the last leg of the Braddock journey, this same problem would turn out to be at least one of their purported downfalls. Dunbar and his men being some 60 miles behind and unable to assist, even to communicate when the army was attacked. Additionally, everyone knew where the army landed. It was a celebrated and well known event. Removing the army as quickly as possible to less observed locations may have been part of the strategy.

These scenarios seems to conflict with the decision to merge the regiments at Winchester, but they would be merged eventually at Cumberland and by the time Dunbar arrived at the crossroads north of Winchester, even after a ten-day layover in Frederick, he still began catching up to Halkett three days from Conococheague.[88] It must also be considered that whether Dunbar marched through Maryland or Virginia, many of the supplies from England as well as locally procured provisions were to be stored at the Conococheague magazine, which meant transport from and through Maryland and some form of military escort or presence anyway.

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[87] Dunbar's regiment had a layover of more than a week at Frederick while the command conference was being held there and one rest day on the march from Conococheague to Winchester, but the actual marching days total six.

[88] "The seaman's journal" from the Braddock expedition.

There was however, road work going on to improve the Maryland route even as the army marched by a different road. There was also a third road in progress. The so-called Burd's Road from near Carlisle, to Raystown Pennsylvania. These roads were intended to connect at Ft. Cumberland to provide needed supplies for the (expected) occupation of Ft. Duquesne after the anticipated eviction of the French.

St Clair, whether unfamiliar or unconcerned for local weather, had ordered all of these efforts begun at the worst possible time of year, mid-winter 1755. It can be assumed the winter of 1754/55 was milder than usual from St. Clair and Sharpe's January canoe trip. A time the Potomac normally has ice preventing such travel. St. Clair, fresh from England and unfamiliar with local weather, may have made assumptions which area residents knew better than to take for granted. The local men, who were to do the road work knew what they'd encounter in the hollows and ridges before springtime, so they did what they'd normally do. They waited for winter to pass.

The Virginians got an earlier start, perhaps in part due to their more southern location, as well as St. Clair's persistent on-site urging. From St. Clair's reputation, we may expect some threats were involved as well. Yet even as the army was preparing to march from Alexandria in mid-April, the Virginia road was just then being cut. St Clair missed the meeting at Frederick in the last days of April because he was in Virginia urging the road builders on with the first columns only miles behind. "If I take the fort in its present condition I shall make additions to it as I judge necessary & shall leave the guns ammunition and stores with a garrison of Virginia & Maryland forces…"

Gen. Edward Braddock to Gov. Sharpe, Will's Creek, 22 May, 1755

Few if any participants expected the eventual outcome of this grand expedition. The various roads would be for re-supply and support of the forces being projected and hence, could wait… at least everyone would have thought so at the time.

Multiple routes would have certainly been helpful in transporting and supply of the army. Either of the more northern routes would have been very helpful in the evacuation of the defeated army. Except for that benefit, one nobody anticipated a need for, we now know it would have had no impact on the ultimate fate of the expedition. Only two day's (march) differed between the unused Maryland route and the Virginia route which was used. The time the army was idle at Cumberland before continuing, proves that brief effort in reaching Winchester was insignificant to the advance.

The greatest challenge in the minds of the British was in reaching the forks of the Ohio. Success in the action there was universally expected, even among many of the French defenders.

"I overtook the General at Frederick Town in Maryl'd and proceeded with him by way of Winchester to this place; which gave him a good opportunity to see the absurdity of that rout, and of damning it very heartily. Colo. Dunbar's regiment was also oblig'd to cross over at Connogogee and come down within six miles of Winchester to take the new road up, which gave me infinite satisfaction."

Ft. Cumberland, May 1755, George Washington to Maj. John Carlyle. [89]

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[89] The writings of George Washington from the Original Manuscripts, 1744 - 1799

Early in this chapter I mentioned the accusation that Gov. Sharpe was selfishly promoting his colony, perhaps even to the detriment of the expedition. St Clair's own later writings mention the selection of the Maryland route being at least partially his own and certainly, the ultimate recommendation of it for Braddock's approval was solely on St. Clair's shoulders. Whether Sharpe had ulterior motives we cannot truly say. However, Washington's letter to Carlyle definitely suggests he had just such selfish motives for his colony.

Everyone expected success from the Braddock mission. The route would certainly bring fame. More than 2000 men and all their supplies moving over any road through this wilderness would instantly improve the thoroughfare simply by their passing.

The route by which the army reached Ft Duquesne would most likely become the preferred route for all future trade to the Ohio country. Even today, more than 250 years later, there are mountains, gaps, roads, etc. named for Braddock, many of which he never traveled. All three colonies, Virginia, Maryland and Pennsylvania, would have liked this glory. The mistaken passage from Orme's journal doesn't help in this confusion, but the next time you read someone maligning Horatio Sharpe for promoting a road that wasn't there, know that it's wrong.

There was not only a road from Conococheague to Ft. Cumberland, but a wagon road. A road probably at least as good as the one ultimately chosen through Virginia. The same Virginia road universally condemned by all but perhaps Washington, in spite of it having been improved even as the army was marching on it. No, far from Sharpe trying to promote Maryland for selfish reasons, it was in fact Washington who does precisely that while he has the general as a captive audience for two days between Frederick and Winchester that first week of May, 1755.

As the adage goes, history is written by the victors. Washington's later fame along with Sharpe's ultimate return to England prior to the revolution, never to return,[90] certainly have some bearing on later writings by earlier American authors seeking to place blame for Braddock's failure. Washington plainly had no personal influence in the decision to use the Virginia route. It was clearly made at least a month before his meeting the General at Frederick the evening before they departed for Winchester. Washington's boastful denouncement of the Maryland route during those first days of May 1755 might rather be seen as massaging the General's ego rather than offering substantial advice.

Perhaps his own ego was feeling a bit threatened. This man who'd made such personal sacrifices for his colony in this dispute with the French. One who arguably is blamed for the first blood spilled in it, who'd already been slighted in denial of the commission he felt deserving of. Perhaps he saw this as a Virginia issue. Undoubtedly, he saw it as one Virginia, if not himself could gain considerable gratitude if not recognition from the crown for and in his mind, the involvement of Maryland may have threatened that glory.

Perhaps there was already some underlying issues between Washington and the man who would give him such a trouncing in the election for the house of burgess two years later. The man who for the second time in as many days was ferrying him across the Potomac. None other than our Thomas Swearingen, a fourth-generation Marylander, living in Virginia for less than a decade, in stark contrast to Washington's deep roots in the colony.

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[90] Sharpe left Maryland in 1773, allegedly to tend to family matters at home. After the war, the Maryland legislature specifically excluded him from the confiscation act of 1780. He was invited back to Maryland but never returned. He was however allowed to dispose of his Maryland property including Whitehall, his 1000-acre plantation and mansion near Annapolis.

In the end, I don't see any indication the decisions which led to choosing the dual routes, then combining them, was due to anything but military expediency. Decisions made by men fresh from England who had no sympathy for any of the colonies, or the colonists who had been to their thinking, far from helpful in contributing to the success of the expedition. They had no reason to give such consideration as would favor one colony over the other. Especially to the possible detriment of the mission. These career military men had one and only one thing in mind. Accomplishing the mission they'd been given.

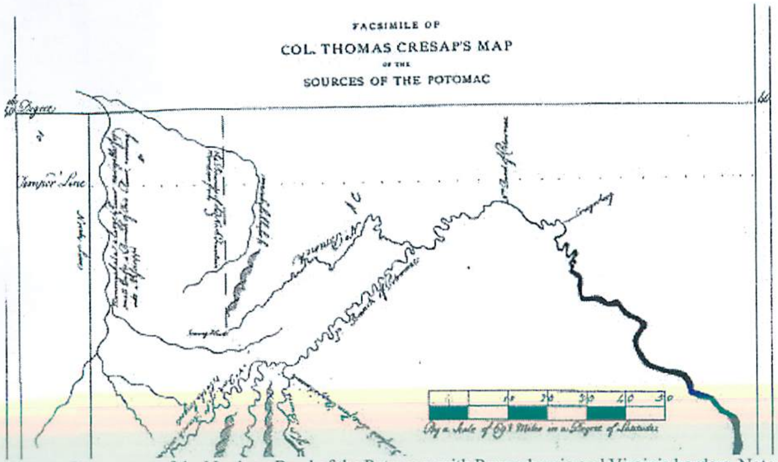
Sharpe was not only aware of the western road, he had traveled it many times. He was the strongest supporter in Annapolis of the whole frontier region and his military background gave him insight on the needs to secure that frontier. The colonial legislature, overwhelmingly made up of men from the settled regions of the colony, were more concerned with their own fortunes and the drain on funds that the defense of the west required.

I feel some of the accusations against Sharpe results from a misunderstanding of his position. A colonial governor was not the same as the latter-day State governor. A State governor's responsibility is the promotion and success of his state and the best interest of the citizens of it. The colonial governor was essentially a CEO appointed by the proprietor, Lord Baltimore to manage his interests.

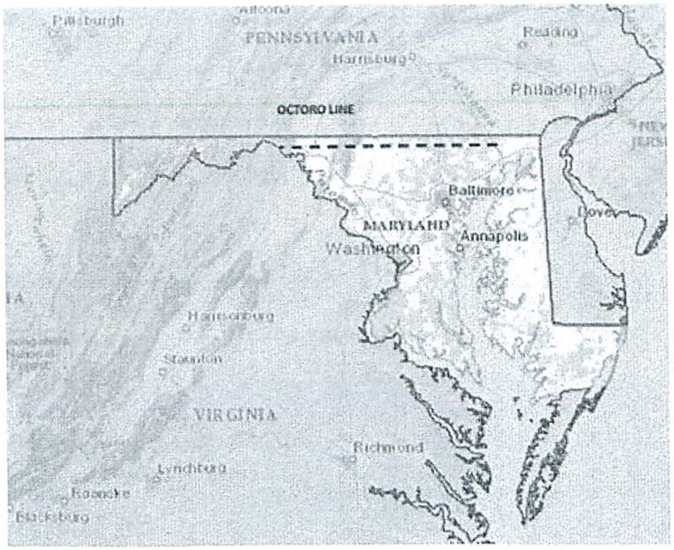
While the success of the colony and the businessmen making it successful was of interest, Sharpe was not actually a Marylander. He was an Englishman living in

Maryland to manage it just as an executive might be transferred to a factory far from home today. The local affairs are only of interest to him in respect to how they may impact the operation and success of the factory. Conversely, we have seen Washington, Franklin and the other colonial's concern for their respective colonies where their whole lives and fortunes rested, much like those eastern Maryland assemblymen who were so reluctant to contribute funds for western defense.

Sharpe's first interest was that of Lord Baltimore's. Lord Baltimore's interests cannot be secured or promoted without the security of the colony, hence Sharpe's second priority is protecting Maryland from incursion by her neighbors, and now the French. The colonists are more or less on their own to make the individual ventures of the colony profitable. That is not Sharpe's concern as it is Washington's, who's personal success is wholly dependent on the success of the colonists, of which he is one himself.


FACSIMILE OF
COL. THOMAS CRESAP'S MAP
OF THE
SOURCES OF THE POTOMAC
Temporary Line
10 20 30 40 50
By a Scale of 69½ Miles in a Degree of Latitude

Thomas Cresap map of the Northern Bend of the Potomac, with Pennsylvania and Virginia borders. Note that while the temporary line is drawn as a dotted line, Cresap had not forgotten the importance of the 40-degree line of latitude and made sure to include it on his map. Similarly, he shows the western line from the (longer) South Branch Potomac with the accepted North Branch line as a dashed line. Maryland archives


Pittsburgh
Altoona
PENNSYLVANIA
Harrisburg
Reading
Philadelphia
OCTORO LINE
NEW JERSEY
Baltimore
MARYLAND
Annapolis
Washington
Dover
Harrisonburg
Staunton
VIRGINIA
Richmond
Lynchburg
Roanoke
Blacksburg

The Octoro Line as championed by the Penn brothers as the PA / MD boundary

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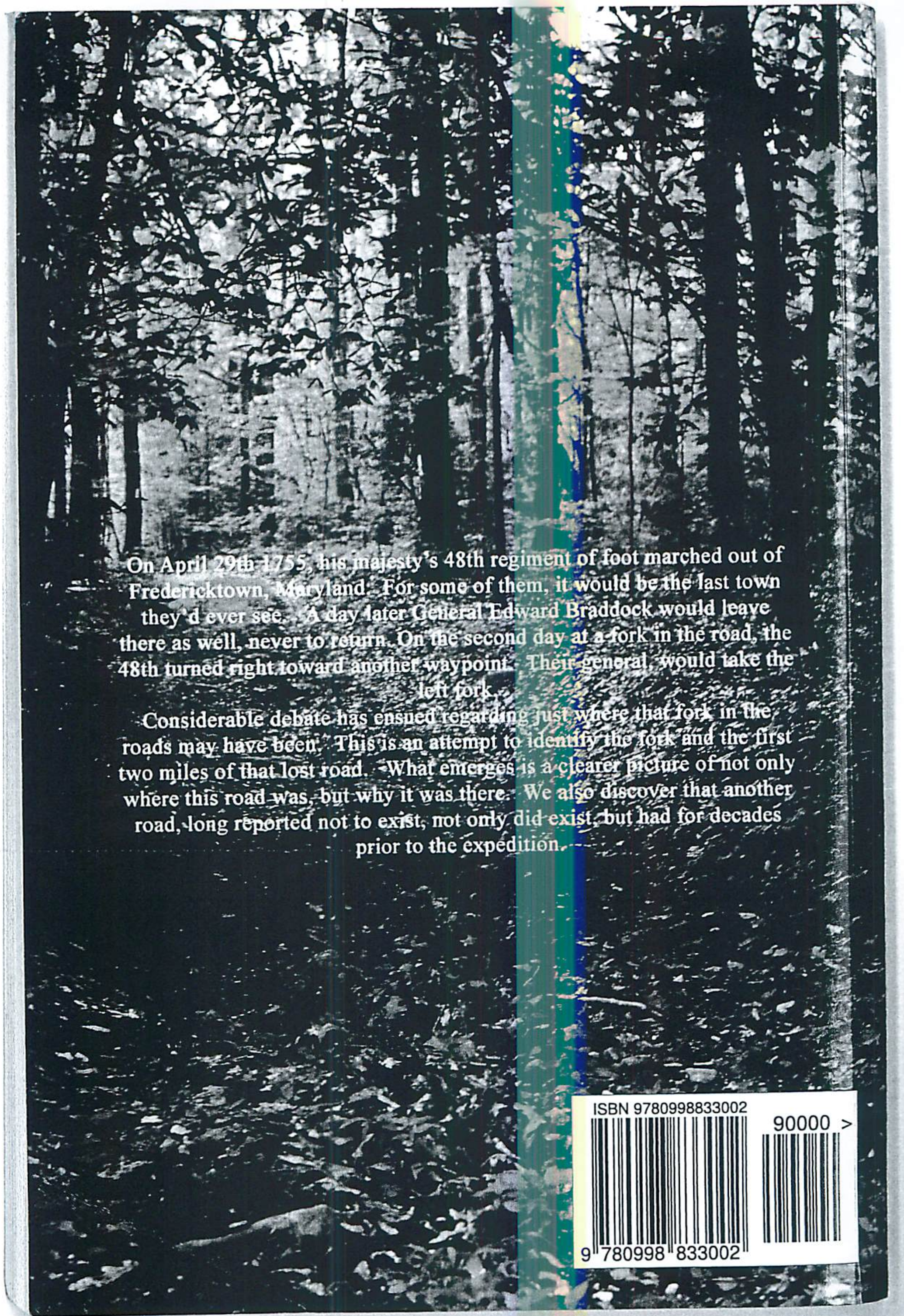

On April 29th 1755, his majesty's 48th regiment of foot marched out of Fredericktown, Maryland. For some of them, it would be the last town they'd ever see. A day later General Edward Braddock would leave there as well, never to return. On the second day at a fork in the road, the 48th turned right toward another waypoint. Their general, would take the left fork.

Considerable debate has ensued regarding just where that fork in the roads may have been. This is an attempt to identify the fork and the first two miles of that lost road. What emerges is a clearer picture of not only where this road was, but why it was there. We also discover that another road, long reported not to exist, not only did exist, but had for decades prior to the expedition.

ISBN 9780998833002
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Justin K. Holder
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November 14th, 2021
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Re: Expert Report - Braddock's Lost Road Letter - case - C-21-CV-20-000371 Young V. Holder et al.

Mr. Ellis,

Who I am if you do not recall

Good afternoon. My name is Justin Holder and I grew up on Bedrock Circle in Keedysville, MD. I am Marvin and Patsy Holder's son. I now live over in Sharpsburg at the West end of Chapline St, last house on the left. I delivered your newspaper in the 80s after JR Burger retired. My brother Aaron was Kelly and Ed's age.

The Purpose of my correspondence is

I imagine you are aware I have gotten into one heck of a “property dispute” trying to save this old road of Braddock’s in Keedysville, MD. My wife Deena bought the old Mill site of Jacob Hess in April of 2018. In April/May of 2020, I started using the Wagon Road to walk to her mother Donna Levey’s house, and the new residents of Keedysville in Stonecrest contested my use. I explained the significance of the old road and that I only wanted to walk and preserve the road, they did not change their position. After further investigation I found the Developer of Stonecrest, Land Surveyor Gary Castle intentionally left a gap on the Eastern edge of Stonecrest where the road bed was located. I discussed the Road with Mr. Castle and he sold me the property in August of 2020. I began to take possession and the Plaintiff in the case Mr. Young filed suit for Declaratory Judgment and Quiet Title.

In part I started walking the road to locate Stone Monuments. The surveyor who did my wife’s property set new iron pins and never ran any title report. I do have quite a file on the road, and I had a new surveyor locate the course. I had a 30 minute conference call with 5 of SHA's top guys, and discussed the "Colonial Roads" file. I also have been discussing the Road with Elizabeth Hughes of the Maryland Historical Trust. I found the Stone at the end of the 57th line of the Resurvey of Felfoot Enlarged and another on down in behind Rockingham to locate the Road fairly well. You did an excellent job in your book report, which was also helpful. I may have located some additional plats and records in MD Archives you may not have examined.

I am sure the last thing you want to do is get caught in the middle of a "property dispute". I am just going to be direct, I think with that Expert Report/Book report in 2017 you are in fact a material witness and in it for testimony. That being said I won't beat around the bush.

I am going to be sending a Subpoena your way as a non-designated expert/fact witness; or if you are up for it I will pay you as an expert to prepare and provide testimony about your book. I would prefer the latter and could use your expertise in explaining the road in your book to the Court. I would kindly ask that you provide a response by email or US Mail on or before December 15th, 2021 if you would like compensation as an expert. I am glad to pay you for your time, and will promptly do so.

About Expert Communications

I wrote a letter because all of our communications will be discoverable, and I want to be upfront. I appreciate your cooperation and value your expertise and experience. Typically an Expert would get an up front retainer to prepare a report. In this case you have already prepared your report in the form of a book report titled "Braddock's Neglected Route: The Forgotten Fork of the Conococheague Road on Maryland's Western Frontier" *Paperback – April 15, 2017.* Which in the case an expert has already prepared a report, it is typical an expert would ask for 5 or 10 hours to prepare for the deposition, and then would be paid by the hour for testimony. The expert may review additional documents provided by the party whom hired him as well. I am would like to designate my expert(s) by the end of the year, and therefore I have set an arbitrary deadline for reply. I will include the Complaint and Answer by email only, so if you receive my letter by mail, please ask and I will promptly provide paper copies of the pleadings in the case.

I appreciate your time and cooperation in this matter. It is possible I could just use the Book itself as your expert report, in which case I would pay you to archive all of your notes and work product in writing the book so I can provide that to the other parties. If you would decline my offer to be hired as an expert, please kindly provide a few dates in late January 2022 you would be available for a deposition as a non -designated expert/fact witness. Please have a great Thanksgiving Holiday, I wish you and your family the best. I do hope my correspondence finds you well, and you can appreciate the reason why I did not just call or drop by.

Respectfully,

Justin Holder
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jholder2004@gmail.com
(240) 356 - 2008

Attachments sent by email only:

A. Plaintiff Complaint
B. Defendant Justin Holder Amended Answer

E-FILED; Washington Circuit Court
Docket: 11/18/2021 4:41 PM; Submission: 11/18/2021 4:41 PM

EXHIBIT C

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN KYLE HOLDER
308 West Chapline Street
Sharpsburg, MD 21782

Counter-Plaintiff(s)/Defendant

v. CASE NO. C-21-CV-20-000371

JEFFREY YOUNG
13 Dogstreet Road
Keedysville, MD 21756

Counter-Defendant(s)/Plaintiff

* *

COUNTER-CLAIM - BILL OF COMPLAINT *QUIA TIMET* FOR DECLARATORY JUDGEMENT of LAW and INJUNCTIVE RELIEF in EQUITY

COMES NOW Defendant(s)/Counter-Plaintiff(s), Justin Kyle Holder, and sues the Plaintiff/Counter-Defendant Jeffrey Young; and for reasons states:

1. This is a claim brought under the common law of Maryland to remove the cloud from the title of Counter-Plaintiff's Real Property located in Washington County, Maryland by *Quia Timet* action and Declaratory Judgement MD Cts & Jud Pro Code § 3-401.
2. The Common Law Bill *Quia Timet* is defined in *Black's Law Dictionary 4th Ed. Rev. 6-1971* at Page 209:

> Bill *quia timet*. A bill invoking the aid of equity "because he fears," that is, because the complainant apprehends an injury to his property rights or interests, from the fault or neglect of another. *Bisp.Eq*. § 568; *2 Story, Eq.Jur*. § 826.
> Such bills are entertained to guard against possible or prospective injuries, and to preserve the means by which existing rights may be protected from future or contingent violations; differing from injunctions, in that the latter correct past and present or imminent and

certain injuries. *De Carli v. O'Brien*, 41 P.2d 411, 416, 150 Or. 35, 97 A.L.R. 693.

3. A Bill *Quia Timet* is a common law injunctive remedy to invoke the equity jurisdiction of the Court because he fears further harm. The action is traditional brought in a real property claim to prevent vexatious legislation when a title is clouded. The Jurisdiction in equity being the lack of adequate remedy in law, and the party being in being in possession of the land.

Requirements of MD Cts & Jud Pro Code § 3-401 (2019) et seq.

4. MD Cts & Jud Pro Code § 3-402 (2019) This subtitle is remedial. Its purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations. It shall be liberally construed and administered.
5. MD Cts & Jud Pro Code § 3-403(b) "The enumeration in §§ 3–406, 3–407, 3–408, and 3–408.1 of this subtitle does not limit or restrict the exercise of the general powers conferred in subsection (a) of this section in any proceeding where declaratory relief is sought and in which a judgment or decree will terminate the controversy or remove an uncertainty."
6. MD Cts & Jud Pro Code § 3-4099a) "Except as provided in subsection (d) of this section, a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:"
7. MD Cts & Jud Pro Code § 3-409(a)(1) "An actual controversy exists between contending parties; (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or (3) A party asserts a legal relation,

status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it."

8. MD Cts & Jud Pro Code § 3-411 "The declaration may be affirmative or negative in form and effect and has the force and effect of a final judgment or decree."

9. MD Cts & Jud Pro Code § 3-412(a) "Further relief based on a declaratory judgment or decree may be granted if necessary or proper."

10. MD Cts & Jud Pro Code § 3-412(b) "An application for further relief shall be by petition to a court having jurisdiction to grant the relief.

9. There exists an actual controversy of a justiciable issue between Counter-Plaintiff(s) and Counter-Defendant(s) within the jurisdiction of the Court; Involving the rights of the parties, boundaries and ownership of Real Property.

10. MD Cts & Jud Pro Code § 3-412(c) "If the application is sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted."

Parties, Jurisdiction and Venue

10. "MD Cts & Jud Pro Code § 3-403(a) Except for the District Court, a court of records within its jurisdiction may declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding is not open to objection on the ground that a declaratory judgment or decree is prayed for."

11. MD Cts & Jud Pro Code § 3-404 "The fact that a proceeding is brought under this subtitle does not affect a right to jury trial which otherwise may exist."

12. MD Cts & Jud Pro Code § 3-405(a)(1) "If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party."
13. MD Cts & Jud Pro Code § 3-406 "Any person interested under a deed, will, trust, land patent, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it."
14. MD Cts & Jud Pro Code § 3-409(e) "A court may order a speedy hearing of an action of a declaratory judgment and may advance it on the calendar."
11. Counter-Plaintiff, Justin Kyle Holder, is an adult resident of Washington County, Maryland.
12. Counter-Plaintiff(s) are interested person(s) within the purview of Section3-401 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland. (The Declaratory Judgment Act, Courts and Judicial Proceedings Section 3 Subtitle 4).
13. Counter-Defendant, Jeffrey Young is an adult resident of Washington County, Maryland.
14. This action concerns various disputes that have arisen in Washington County, Maryland, ("Property Dispute").
15. Jurisdiction and venue are appropriate in Washington County, Maryland.

16. This Court has jurisdiction over the Defendants pursuant to MD. CODE ANN. CTS & JUD. PROC. §16-102. This Court has jurisdiction over the cause of action pursuant to MD. CODE ANN. CTS & JUD. PROC. §4-401.
17. This Court is the proper venue pursuant to MD. CODE ANN. CTS & JUD. PROC. §6-201 because all residents reside in Washington County.
18. The Counter-Plaintiff's Real Property described by Surveyor Certificate prepared by Professional Land Surveyor George Nagel on deed dated August 10th, 2020 from Grantor Stonecrest Development, LLC and recorded at Liber 6370 folio 249 et seq. among the Land records of Washington County; a copy is attached hereto as Exhibit 1 - Deed from Stonecrest ("GCQC").
19. Two adverse "parties cannot be siesed at the same time of the same land under different titles and the law adjudges, therefore, the siesen of all that is not in the actual occupancy of the adverse party to him who has the better title" *Goen v Sansbury,* 149 A. 2d 17 - MD (1959).
20. Justin Holder is in actual possession of part of his property in Keedysville, Maryland; and therefore in constructive possession of all that he owns.

Facts Common to the Declaratory Judgement Requested

21. GCQC, beginning at folio 249 paragraph 5 and concluding at folio 250 paragraph 2 describes the purported chain of title to lands purported as being conveyed therein.
22. On GCQC folio 250 paragraph 1 states in part "...Parcel No. 3 of the the lands conveyed by the said deed recorded at Liber 772 folio 1069 was stated to be Parcel #3 'in the Deed from Vincent R. Groh, Personal Representative of the Estate of Charles Dudley Pry,

Deceased, dated April 14th, 1978, and of record at Liber 659 folio 580 ("L659f580") among the Washington County Land Records..." see Exhibit 2 - L659f580.

23. The 3rd paragraph on folio 581 of L659f580 states "Parcel No. 3 'Improved Part' part of a tract of land called "Hillsdale and the Vineyards" and part of a tract called '[F~~T~~]ells Foot Enlarged", lying contiguous and embraced by the following metes and bounds; to wit:"
24. The 4th paragraph on folio 581, which continues onto folio 582, purports to describe the metes and bounds of Parcel No. 3 Tract No. 1 of L659f580; beginning at the 6th line in part states "...North 8 1/2 degrees East 32 1/2 perches to intersect the second line of a deed from David Hess to Samuel Cost for part of '[F~~T~~]ells Foot Enlarged', and dated September 10th, 1832 and recorded in Liber N. N. Folio 520 ("NN520") among aforesaid land records, then with said second line [Eastern Boundary], North 71 degrees East 30 perches, thence North 24 degrees East 29 1/2 perches to intersect the southwest side of the Washington County Railroad [Northern boundary]...and with the with the fourteenth, fifteenth and sixteenth lines of said deed [NN520 14th line] South 43 degrees West 6 perches to a stone..."
25. NN520 deed beginning at the 2nd line in part states "...North seventy one degrees East fifty eight perches; [3rd line] North twenty three degrees East twenty six perches to a stone standing at the end of the line of Felfoot Enlarged; [4th line] then North seventy seven degrees East eight perches to Little Antietam Creek then down said creek the nine following courses... [courses 5 through 13 being a total of 9 lines and generally describing creek]...[14th line] South 43 degrees West 6 perches...". See Exhibit 3 - NN520.

26. Chapter 334 of the Acts of Assembly of 1864 at section 3 purported to bestow the limited right "...so far as shall be necessary for the purpose hereinafter mentioned, and no further..." in section 10 "...to construct a [Rail] road or roads from Hagerstown[, MD] to any point on the line of the Baltimore and Ohio Railroad east of Harpers Ferry[, WV], within the limits of Frederick or Washington counties, in the State of Maryland, not exceeding sixty-six feet wide,..." See Exhibit 4 - Chapter 334 of the Acts of 1864.

27. The Washington County Railroad Company in 1866 completed construction of the Washington County Railroad, which aforesaid railroad was abandoned by I.C.C docket AB 19 sub 20 by final decision on June 19th, 1978 ("Abandoned Railroad"), See Exhibit 5 - I.C.C. docket AB 19 sub 20.

28. By deed dated April 7th, 1866 Grantor Samuel Cost [NN520 Grantee] granted to the Washington County Railroad Company rights "...through the entirety of his said lands..." to operate the railroad which are recorded among the land records of Washington County, MD at Liber I. N. 18 folio 488 ("IN18f488"), See Exhibit 6 - IN18f488.

29. The abandoned railroad bisected the peninsula shaped NN520 through the entirety of the lands of Samuel Cost from approximately the stone at the end of the 3rd line of NN520 to the beginning of the 14th line of NN520.

30. Therefore the Abandoned Railroad was the Northern boundary of deed L659f580 Parcel No. 3 of the lands of Samuel Cost granted from David Hess on NN520; and the 2nd and 3rd lines of NN520 were the Eastern boundary of L659f580.

31. The portion of NN520 North of the Abandoned Railroad is now or formerly owned by Uncle Eddies brokedown palace, LLC a New Mexico Limited Liability Corporation ("Uncle Eddie").

32. Uncle Eddie's title to the Northern part of NN520 was confirmed by the personal representatives of the Estate of Mary Jane Hutzell by deed dated July 18th, 2020 and recorded among the Washington County land records at Liber 6468 folio 345 ("L6468f345"), See Exhibit 7 - L6468f345.

33. L6468f345 does purport to describe the chain of title to all lands contained therein as being part of the same lands described on NN520.

34. Defendant Jeffrey Young, in Complaint C-21-CV-20-000371 docketed September 16th, 2020 at ¶9 claims to be the sole owner of real property in Keedysville, MD by deed dated August 3rd, 1988 from Grantor Harry Wickline and recorded among the Land Records for Washington County, Maryland at Liber 885 folio 110. (Deed "L885f110") See Exhibit 8 - Complaint 371 and Exhibit 9 - L885f110.

35. Defendant Jeffrey Young, in Complaint C-21-CV-20-000371 docketed September 16th, 2020 at ¶3 claims "The real property in question is located in Washington County, Maryland, and is more particularly shown and described as Parcels 2 and 3 on the Plat entitled "Property Line Survey for Harry Wickline" dated June 15,1988, and recorded among the Plat Records for Washington County, Maryland, at Plat Record 2499. " (Plat "2499")

36. On folio 111 of L885f110 the property is described as "BEING all of Parcels 1.2, and 3 of the lands conveyed to Roy G. Reeder and Mae M. Reeder, his wife, to Harry E. Wickline and Lempi L. Wickline, by deed dated January 7, 1966 and recorded among the Land Records for Washington County, Maryland at Liber 434, folio 776 ("L434f776") see Exhibit 10 - L434f776; and being more particularly shown and described on a plat entitled 'Property Line Survey for Harry Wickline"[2499], dated July 20, 1988 and recorded among Plat Records for the aforesaid County."

37. Roy G. Reeder and Mae Reeder, his wife were Granted land by deed dated April 30th, 1945 by Grantor's J. Albert Shank and Francis S. Harp, Attorneys in fact for Sarah E. Shank and Sarah E. Shank, widow and recorded among the Land Records of Washington County, Maryland at Liber 230 folio 139 (L230f139), see Exhibit 11 - L230f139.

38. L434f776 at folio 778 contains a plat of the land's being conveyed by aforesaid deed; which in the Northwest corner of aforesaid plat purports to begin from a planted stone at the beginning of the 12th line of L230f139.

39. L230f139 states "reserving and excepting the rights reserved and excepted in the deed to Jacob H. Keedy from Nicholas Stine and wife, dated April 1st 1861 recorded in Liber I. N. No. 17 Folio 538 ("IN17f538"), one of the Land Records of said Washington County; also excepting and reserving that part of the above described tract contained 1 1/4 acres and 18 perches, more or less, conveyed by Jacob M. Hoover and wife, to S. Hermon Clopper, by deed dated February 14th, 1896, recorded in Liber No. 104 Folio 541, one of the Land Records of said Washington County...." See Exhibit 12 - IN17f538

40. GCQC includes a survey certificate on folio 253 prepared under the duty and care of Professional Land surveyor George Nagel ("Mr. Nagel").

41. GCQC at folio 253 describes land as "Beginning at a 'Stone' 'found', said stone being at the beginning of the 12th or South 24° West 27 1/2 perch line of Parcel No. 4 in a deed from J. Albert Shank and Frances Harp, Attorneys in fact for Sarah E. Shank, and Sarah E. Shank to Roy G. Reeder and Mae M. Reeder, dated April 30, 1945 and recorded in Liber 230 at folio 139 among the Land Records of Washington County, Maryland, thence with the 12th or South 24° West 27 1/2 perch line…"
42. L434f776 [predecessor to Jeffrey Young's deed L885f110] describing land as "Being a part of Parcel No. 4 in a deed from J. Albert Shank et al. unto grantors herein dated April 30, 1945 and recorded in Liber No. 230, folio 139, one of the Land records of Washington County, Maryland, and beginning for the part herein conveyed at a planted 'Stone', said 'Stone' being at the beginning of the 12th (South 24 degrees West 27.5 perches) line of the aforementioned deed; and 1. Running thence with said 12th line South 24 degrees West 453.75….Parcel 3: The Grantors also grant and convey unto the Grantees all of their right, title and interest in and to the following described land; Beginning at the plated 'Stone' at the beginning of the 1st line of Parcel No. 1 and running (1) Thence along said 1st line South 24 degrees West 453.75 feet….And we, the said Roy G. Reeder and Mae M. Reeder, his wife, do hereby covenant except as to Parcels No. 2 and 3 that we will warrant generally…"
43. The 8th line of Parcel No. 4 L230folio139 and IN17f538 state "North 50 degrees West 73 perches to a stone planted on the West Bank of the aforesaid creek,
44. The 9th line of Parcel No. 4 L230folio139 and IN17f538 state "thence South 33 - 1/3 degrees West 3 perches to a stone" and the 6th line of NN520 states" North 31 degrees

East 9 perches, as does the 2nd line of L6468f345, located at paragraph 1 on folio 347 on said deed [Generally following the Little Antietam Creek]

45. The 7th line of NN520 and the 3rd line of L6468f345 both state" …North 10.5 degrees East 11 perches…" [Generally following the Little Antietam Creek].

46. The 8th line of NN520 and the 4th line of L6468f345 both state"… North 19 degrees West 5.5 perches."[Generally following the Little Antietam Creek].

47. The 10th line of Parcel No. 4 L230folio139 and IN17f538 state "South 22 1/2 degrees West 17 perches to a stone planted near the West end of a stone abutment"; the 5th line on NN520 states" North 22 degrees East 17 perches and the 1st line on L6468f345 states "beginning at a planted stone standing near and in a Northerly direction from the West end of what was formerly the Washington County Rail Road bridge across "Little antietam" where said stream passes through the lands formerly belonging to Jacob Keedy into the lands formerly belonging to Elias Snively and running thence down said Creek North 22 degrees East 17 perches…"

48. The 11th line of Parcel No. 4 L230folio139 and IN17f538 state "thence South 79 degrees West 7-9/10 perches to a stone" and the 4th line of NN520 states" then North seventy seven degrees East eight perches to Little Antietam Creek then down said creek the nine following courses..."[following 1st, 2nd, 3rd and 4th lines of L6468f345 land now or formerly Uncle Eddie and the Eastern boundary of the Northern section of NN520].

49. The 12th line of Parcel No. 4 L230folio139 and IN17f538; and the 1st line of L434f776 and GCQC state "South 24 degrees West 27 1/2 perches to a [marked hickory tree on In17f538/L230f139, iron pin in a hickory stump on L434f776 and the beginning of the 13th line of l230f139 on GCQC]"; the 3rd line on NN520 states "North twenty three

degrees East twenty six perches to a stone standing at the end of the line of Fellfoot Enlarged then" and the 8th line on L659f580 states " thence North 24 degrees East 29 1/2 perches to intersect the southwest side of the Washington County Railroad".

50. The 13th line of Parcel No. 4 L230folio139 and IN17f538 state" South 71 1/4 degrees West 31 - 7/10 perches to a stone in a L[a~~i~~]ne; the 2nd line of L434f776 states "thence following an established lane and running with the 13th (South 71 degrees 45 minutes West 31.7 perches) line of the aforementioned deed South 71 degrees 45 minutes West 523.05 feet to an iron pin near a farm gate" the 2nd line of NN520 states "North seventy one degrees East fifty eight perches" and the 7th line of L659f580 states" ...North 71 degrees East 30 perches".
51. L434f776 was the first carve out of a portion of Parcel No. 4 on L230f139 and another portion was granted to Nicholas Diavatis by deed dated May 29th, 1967 from Roy G. Reeder and Mae Reeder recorded at Liber 456 folio 14 ("L456f14") of the Land Records of Washington County, Maryland, See Exhibit 13- L456f14.
52. L456f14 purports to run with the lines of L434f776.
53. Plat 2499 was prepared under the duty and care of Professional Land Surveyor Frederic Frederick ("Mr. Frederick") in the spring and summer of 1988; said plat is mentioned in L885f110.
54. The 6th line of L885f110 is "thence crossing said stream and continuing with the Southern marginal line of the Baltimore and Ohio Railroad [Abandoned Railroad].
55. The Northern boundary of L659/580, L434f776 and L885f110 are described as the Abandoned Railroad.

56. On folio 778 on L434f776 and plat 2499 the abandoned railroad is depicted as the northern boundary of the lands surveyed for Counter-Defendant Jeffrey Young.

57. On August 31st, 2021 under the duty and care of Mr. Nagel a survey for Uncle Eddie's lands on L6468f345 was drawn which depicts the southern boundary of L6468f345 as the Abandoned Railroad, see Exhibit 14 - Holder Boundary Survey ("Mr. Nagel's Survey").

58. Mr. Nagel's Survey depicts a "planted stone found" at the beginning of the line crossing the Abandoned Railroad at South 75 degrees 44 minutes 6 seconds West 129.61 feet into the Little Antietam Creek ("Mr. Nagel's 1st line"), the boundary than meandering down said creek.

59. Justin Holder has been told by Mr. Frederick and Mr. Nagel there is a marginal difference in bearings when measured by the Global Positioning system and a compass, the difference of magnetic north and true north ("True North").

60. Mr. Nagel's 1st line bearing 75degrees 44 minutes 6 seconds is measured at True North the 4th, line of NN520 bearing 77 degrees and the 11th lines of IN17f538 and Parcel No. 4 on L230f139 bearing 79 degrees; where measured with a compass presumably.

61. Mr. Nagel's 1st line is 129.61 feet long and a perch is known to contain 16.5 feet; therefore Mr. Nagel's 1st line is approximately 7.9 perches long, the 11th line on Parcel No. 4 on L230f139 and IN17f538 are 7.9 perches long and the 4th line of NN520 is purported to be 8 perches long.

62. Mr. Nagel has made Justin Holder aware that the Stone described as "found" on GCQC is the Stone depicted on Mr. Nagel's Survey at the beginning of Mr. Nagel's 1st line that crosses the abandoned Railroad, ("The Stone").

63. Counter-Plaintiff has shown what he alleges is "The Stone" to Counter-Defendant Jeffrey Young on March 24th, 2021 while Mr. Nagel was on site conducting survey work.

64. On March 16th, 2021 Professional Land Surveyor Frederic Frederick ("Mr. Frederick") was deposed in the matter of Jeffrey Young v Justin Holder et al., case C-21-CV-20-000371 docketed September 16th, 2020 ("Mr. Frederick's Deposition").

65. Mr. Frederick testified in Mr. Frederick's Deposition that "· BY MR. RUBLE: Q.· ·So this exhibit is really just a page 3 Liber 434 Folio 778 of the deed to Wickline which has got the Mause [sic] 1965 survey and then the second page of the exhibit is the 1988 survey [Plat 2499}.· These are the same lands, right, Mr. Frederick? A.· ·I believe so." *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.

66. Mr. Frederick testified in Mr. Frederick's Deposition that "Q.· ·Okay.· So in comparing the two then, the 1966 deed description into the Wickline starts at a planted stone ["The Stone"] beginning of the 12th line of the 1945 deed to ·Reeder, which I believe is up here in the corner.· I don't· know if you all can see my mouse or not. A.· ·I see it. ·Q.· ·And did you find that stone or did your folks find that stone? ·A.· ·Can you scroll down to my survey so that I can --· · Q.· ·Sure. ·A.· --- see it quickly?· And zoom in on it, please.· (Whereupon, the witness reviewed the document as requested.) THE WITNESS:· We did not find that stone because we say we set an iron pin there. " *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.

67. Mr. Frederick testified in Mr. Frederick's Deposition that "BY MR. RUBLE: **·Q.· ·Okay.· If you had found that stone, would you have shown that stone instead of setting a pin?** ·A.· ·If we could prove that it was the original stone. What do I mean by that?· There's a lot of stones occurring· in nature everywhere, so just because you find a stone doesn't

mean it is the stone recited in a deed.· So you need to prove it by finding measurements that verify that it is that stone. **Q.· Okay.· Was any of that done with regard to this ·planted stone that appeared in the 1965 survey that you all didn't find?· Did you search for it and try to measure up where it would be?** A.· ·We did. **·Q.· ·And couldn't find the stone?** A.· ·We did not."*Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.

68. Mr. Frederick testified in Mr. Frederick's Deposition that "**Q.· ·Okay.· So if another surveyor were to say here in 2021 that he can go find that stone, would he be mistaken or would you be mistaken?** A.· ·We could be mistaken, but we looked for it and we didn't find it.· And, you know, some people set these things as they want to.· So it wasn't there, to the best of· our knowledge, that my survey crews did not find it." *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.
69. Mr. Frederick testified in Mr. Frederick's Deposition that "**Q.· ·Would I be correct to refer to that planted stone as a monument?** A.· ·If it's the original stone, yes." *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.
70. In 1988 when conducting field work for plat 2499 Mr. Frederick or his agents looked but did not find The Stone and in 2020 when conducting field work to prepare the Surveyor certificate appended to GCQC Mr. Nagel "found" The Stone and subsequently drew The Stone as the "planted stone found" at the beginning of Mr. Nagel's 1st line on Mr. Nagel's Survey for Uncle Eddie to describe L6468f345.
71. The 8th line of L885f110 is "thence running along the Eastern Boundary of lands now or formerly of Leonard L. Dorsey (Liber 659, folio 580) South 22 degrees 24 minutes 46 seconds West 462.16 feet to an iron pin set [by Mr. Frederick].

72. The 9th line of L885f110 is "thence along the same [L659f580] South 69 degrees 46 minutes 39 seconds West 497.33 feet to a recovered iron pin.

73. "As a general canon of boundary law, it is well-settled that a call to an adjoining boundary takes precedence over a metes and bounds description in the same instrument." *Ski Roundtop, Inc. v. Wagerman,* 79 Md. App. 357, 367, 556 A.2d 1144 (1989).

74. Thus, to the extent that any conflict exists by reason of course and distance descriptions, in the absence of any evidence of contrary intention, the calls control. *See Delphey v. Savage,* 227 Md. 373, 378, 177 A.2d 249 (1962) (calls to monuments given precedence over courses and distances); *Zawatsky Constr. Co. v. Feldman Dev. Corp.,* 203 Md. 182, 187, 100 A.2d 269 (1953); *Dundalk Holding Co. v. Easter,* 195 Md. 488, 495, 73 A.2d 877 (1950); *Wood v. Hildebrand,* 185 Md. 56, 60-61, 42 A.2d 919 (1945) ; *Conrad v. Williams,* 121 Md. 35, 40, 88 A. 36 (1913) ("[W]here the courses and distances in a grant do not agree with the call, the call will prevail and the courses and distances will be rejected."); *Stewart v. May,* 111 Md. 162, 174, 73 A. 460 (1909); *Houck v. Loveall,* 8 Md. 63, 69 (1855)

75. Thus Jeffrey Young was granted lands in Keedysville, Maryland at L885f110 that bind on the eastern boundary of lands now or formerly Leonard Dorsey in L659f580, which aforesaid lands of L659f580 describe the eastern boundary as the 2nd and 3rd lines of NN520.

76. The lands of Jefferey Young described in L885f110 and depicted on Plat 2499 by operation of law would bind on the 2nd and 3rd lines of NN520, the Eastern boundary of L659f580.

77. Professional Land surveyor Mr. Nagel has properly located the "Stone" Monument that is the First call on the Defendant, Jeffrey Young Predecessor Harry Wickline

L434f776 and Plaintiff Justin Holder GCQC deeds, and provided surveyor certificate/ survey of same.

78. That in Washington County Land Record located at Liber N. N. Folio 520 is deed dated 1832 Granted by David Hess to Samual Cost where "The Stone" monument "found" by George Nagel at the end of the 3rd line of NN520; is the beginning of an 8 perch line that terminates at the beginning of lands now or formerly Uncle Eddies brokedown palace LLC described on L6468f345.

79. Plat 2499 from ¶3 Jeffrey Young Complaint 371 depicts the same lands as page 3/folio 778 of the Young predecessor Harry Wickline deed recorded at Liber 434 folio 776 of the Washington County Land Records.

80. The Hagerstown to Weaverton/Washington County Branch of the B and O Railroad Abandoned by I.C.C. Docket AB 19 Sub 20, which was acquired by the Washington County Rail Road Company as a *quasi*-public company incorporated by Chapter 334 of the Acts of Assembly of 1864, which said company was granted, by the said Act limited right "to construct a road or roads from Hagerstown to any point on the line of the Baltimore and Ohio Railroad east of Harper's Ferry ... not exceeding sixty-six feet wide," and "after the purchase and condemnation thereof ... may enter upon and use and excavate any land that may be wanted for the site of the said railroad.". The I.C.C. docket AB 19 sub 20 was final on June 19th, 1978 and served on June 22nd, 1978; Virginia Gunning, General Attorney for the railroad confirmed consummation of the abandonment by November 15th, 1978 letter confirming the tracks, ties, rails were

salvaged and bridges dropped. (The I.C.C. required a 180 day period for the Public to obtain rights prior to abandonment.)

Facts Common to the "Property Dispute"

81. The Plaintiff's Real Property described by Surveyor Certificate prepared by Professional Land Surveyor George Nagel and recorded at Liber 6370 folio 249 et seq. among the Land records of Washington County; a copy is attached hereto as Exhibit 1 - Deed from Stonecrest ("GCQC").
82. On January 22nd, 2020 Benjamin Estes (Mr. Estes) filed action for Trespass in the Washington County District Court against Justin Holder (Mr. Holder) for civil Trespass.
83. On June 8th, 2020 State of Maryland to the benefit of the Department of Natural Resources (DNR) charged Justin Holder *inter alia* with driving in a non designated area/ illegal clearing/disturbing a rock on State Park Land in the Washington County District Court.
84. On September 16th, 2020 Jeffrey Young (Mr. Young) filed a complaint for Declaratory Judgment of a recorded instrument and to Quiet Title pleading adverse possession in the Washington County Circuit Court against Mr. Holder and Deena Holder (Mrs. Holder). Mr. Young advertised the Quiet Title under RP § 14-615 and Uncle Eddies brokedown palace LLC (Uncle Eddie) answered as an interested party.
85. On November 13th and 19th, 2020 Mr. Estes charged Mr. Holder in the District Court with criminal Trespass, Assault and Stalking.
86. On November 16th, 2020 Mr. Estes files an action of Trespass, Private Nuisance, treble damages and aiding and abetting of same in the Washington County Circuit Court against Mr. Holder and Mrs. Holder; Amending the Complaint on March 17th, 2021 to

include Quiet Title, and Ejectment in the Alternative, naming Uncle Eddie as a Defendant to the Complaint.

87. On May 6th, 2021 Plaintiff Benjamin Estes in case C-21-CV-20-000430 Amended his Complaint to include DNR as Defendant, and in addition Plead Adverse Possession of the Property in dispute.

88. The Properties in dispute were allegedly surveyed and platted by Professional Land Surveyor Frederic Frederick of Frederick Siebert and Associates (Mr. Frederick).

89. The Little Antietam Creek runs generally in a South to North direction through the lands claimed by Uncle Eddie, Mr. Estes and Mr. Young.

90. The now abandoned Washington County Branch of the B & O Railroad (Abandoned Railroad) runs generally East to West through the Lands claimed by Mr. Estes, Mr. Young, Uncle Eddie, Christine and Scott Morral, The Stonecrest Development in Keedysville, MD, Mrs. Holder and Mr. Holder.

91. Mr. Holder, Uncle Eddie,Mr. Estes, Mrs. Holder and DNR all may claim rights in the Abandoned Railroad.

92. Mrs. Holder and Uncle Eddie claim incorporeal rights of an easement known as the "Wagon Road" through the lands claimed by Mr. Young, Mr. Holder, DNR and Stonecrest.

93. Mr. Young's property is primarily East of the Wagon Road and South of the Abandoned Railroad with the Little Antietam Creek bisecting his property.

94. Uncle Eddie's Property is generally West of the Little Antietam Creek and North of the Abandoned Railroad.

95. Mr. Estes property is generally East of the Little Antietam Creek and North of the Abandoned Railroad. Mr. Estes contends to own the Western bank of the Little Antietam Creek and Creek bed, Uncle Eddie avers it owns the West Bank and Creek bed. Land depicted as "Deed Overlap Area" on Mr. Nagel's Survey.

96. Mr. Estes appears to contend the Public has no rights to the waters of the Little Antietam Creek and Mr. Holder appears to contends the Public does have rights to the aforesaid waters.

97. The DNR contends to have rights to the waters above the Creek bed that the DNR contends to own; but does not represent other agencies whom may assert rights to regulate the waters such as Maryland Department of the Environment.

98. The Parties in which Uncle Eddie and Mrs. Holder contend the Wagon Road burdens generally own property North of the Abandoned Railroad and west of the Wagon Road in a subdivision built out in 2017 and completed in 2019 named (Stonecrest).

99. Mr. Holder has no record Stonecrest was surveyed by Mr. Frederick.

100. The Stonecrest Plat 8292 et seq. recorded in Washington County Land records has a note at the bottom the plat was done without a title search and there may be other encumbrances than depicted on the plat.

101. Mr. Holder contends that Mr. Frederick performed the Surveys of Mr. Estes, Mr. Young, and Uncle Eddie with no title research and did not locate the original stone monuments [The Stone]; setting new iron pins near fence lines.

102. Mr. Young and Mr. Estes have plead *inter alia* claim to right by adverse possession. Mr. Holder Contends the epicenter of the dispute is in the vicinity of a Stone Monument [The Stone].

103. Mr. Holder contends The Stone is generally located in the center of all the parties claimed properties at the Intersection of the Wagon Road, Abandoned Railroad and Little Antietam Creek.

104. Samual Cost of Washington County Maryland was predecessor in title to “Uncle Eddie” by virtue of land contained in deed N.N. Folio 520 of the Washington County Land Records (NN520).

105. The third line on the “NN520” description states “to a stone standing at the end of the line of Fellfoot Enlarged”

106. The fourth line on “NN520” description states “N77E 8p to Little Antietam Creek, then down said Creek the nine following courses”

107. The Resurvey of Fellfoot Enlarged (“RFFE”) March 15th, 1792, Recorded in the Washington County Land Records at Liber G Folio 621 starting at the end of the eighth line from the bottom of Folio 623 states: “Beginning for Jacob Hesse's part of said land described on the plat by No. 6 at a stone marked I.H.[Not “The Stone”] on one side and M. S. on the other in a lane [Not “Wagon Road”] at the end of two hundred and seventy eight perches and thirteen feet on the forty sixth line of the whole tract and running thence with the outlines of the said whole tract until the fifty seventh line thereof crosses little Antietam to the east side thereof then up and with the meanders of little Antietam the several following courses…[Next 4 Courses Generally run with the 5th through 8th lines of “NN520” except NN520 is on the west bank and “RFFE” is on the east bank and the lines gradually depart as they approach the confluence of the Big

Spring Branch located in the Northeast corner of "Plat 10955"] .....to intersect the 23rd line of the whole Tract than by and with the outlines of the said whole Tract to a Stone [Not "The Stone] marked I. H. Standing at the end of nine perches and eight links in the twenty seventh line thereof And then by a straight line to the beginning which straight line is the divisional line between the said Jacob Hess and Mich [Spuert]", see Exhibit 16 - RFFE

Facts Common to the "Wagon Road"

108. The DNR by deed recorded at Liber 1015 folio 796 of the Washington County Land Records ("CSXQC") may claim some interest through the lands described as Abandoned Railroad Property.

109. CSXQC includes a list of all property rights acquired by the B and O or Washington County Railroad that were the subject of I.C.C. Abandonment Docket AB 19 sub 20 on June 19th, 1978, served on June 22nd, 1978 and consummation claimed to be complete prior to midnight on November 15, 1978 in a letter to the I.C.C. from General Attorney Virginia Gunning on behalf of the Railroad; said CSXQC deed contained a list of deeds including IN18f488 from Samuel Cost.

110. Christine and Scott Morral (the "Morrals") own real property located at 138 Stonecrest Circle in Keedysville, Maryland (the "Morral Property").

111. The Morrals purchased the Morral Property as the second constructed house in a then-new development called Stonecrest on November 29, 2016, by virtue of a deed recorded at Book 5393, page 479 among the land records of Washington County, Maryland (the "Morral Deed").

his wife that benefits the Holder Properties and runs, in part, behind and through the Morral Property, Abandoned Railroad Property, Town Property and Young Property.

120. This right of way was created by deed dated March 22, 1872, and recorded among the Land Records of Washington County, Maryland at Liber WMcKK 6, folio 363 (the right of way created therein is hereafter called the "Right of Way").

121. Record title to the Right of Way has carried forward to the present day and continues to benefit the Holder Properties.

122. The Right of Way burdens the Morral Property, which is part of the remaining lands of Aaron and Malinda Cost through which the Right of Way ran at the time of its creation in 1872.

123. On May 20, 2020, Counter-Plaintiff visited the Morrals in person to invite them to an upcoming event being held at the Holder Properties, to discuss the Right of Way, and offered to email the deeds evidencing the Right of Way.

124. Counter-Plaintiff provided the Morrals with his email address so they could correspond with him regarding the Right of Way.

125. Despite Counter-Plaintiff's offer, Morrals declined to inquire further of Counter-Plaintiff regarding the Right of Way.

126. At the Temporary Peace Order Hearing on July 16, 2020, Counter-Plaintiff produced to the Morrals as evidence in the hearing a physical copy of a deed describing the Right of Way for the Holder Properties.

127. Counter-Plaintiff further produced at the temporary hearing Plat 8292 and pointed out how Morrals' own deed warned the Morrals' that their property is subject to rights of way of record.

128. At the Final Peace Order Hearing, on July 31, 2020, Christine Morral testified that, as of that day, other than verifying that the Holders owned property behind the Morrals' property, she did not "undertake any efforts to ascertain whether [Holder] had a right of way through [the Morrals'] property."

129. Counter-Plaintiff produced at the Final Peace Order Trial an expert title attorney who produced a written title opinion and testified that the Right of Way was validly created as a record title easement that benefitted the Holder Properties and burdened the Morral Property and that good title to the Right of Way had been carried forward to Mrs. Holder.

130. The title expert attorney also testified that the Right of Way had not been extinguished by any instrument of record.

131. Counter-Plaintiff also produced at the Final Peace Order Trial, Mr. Nagel an expert surveyor who testified that the location of the Right of Way crosses the rear portion of the Morral Property.

132. At the close of the evidence in the Final Peace Order Trial, the District Court acknowledged that Defendants had produced no evidence that the Right of Way had been abandoned.

133. Counter-Plaintiff's attorney stated: "I ask the Court, what evidence is there that there was an abandonment?" The District Court responded: "Right. There's none." Attorney: "Correct." Court: "Right."

134. Jeffery Young predecessor by deed IN17f538 was Jacob Keedy and Deena Holder and Uncle Eddie predecessor by deed NN520 was Samuel Cost.

135. The 2nd, 3rd, 4th, 5th and 6th lines of NN520 deed generally match the 9th, 10th, 11th, 12th, and 13th lines of the IN17f538 deed; thereby creating the division line as would have been in 1872 of Samuel Cost or heir and Jacob Keedy or heir ("Cost/Keedy" division line).

136. The "Wagon Road" that burdens Defendant Justin Holder's title located at Liber 6370 Folio 249 purports to follow the Cost/Keedy division line.

137. The Washington County Railroad Company as required by Section 12 of Chapter 334 of the Acts of Assembly of 1864 ; as aforesaid Act expressly states "ways, either public or private, it shall be the duty of the said President and Directors of said company so to construct the said road across such established road or way, as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the lands of any individual it shall also be their duty to provide for such individuals proper wagon, ways across said road or roads, from one part of his lands to the other, and whenever any road or roads may hereafter be authorized to be made by the Legislature, when it may be necessary to cross said railroad, the company shall make or cause to be made a proper and convenient way for road to cross, the expenses of which shall be paid as the Legislature may direct.".

138. The Department of Natural Resources has not claimed to have interest in The Stone that is the subject of this instant Declaratory Judgement action in Response to a Motion for Consolidation filed September 29th, 2021 in the Court of Special Appeals; Appeal No.'s 624 and 780 September Term.

139.Mr. Estes has not claimed to have interest in The Stone that is the subject of this instant Declaratory Judgement action in Response to a Motion for Consolidation filed September 30th, 2021 in the Court of Special Appeals; Appeal No.'s 624 and 780 September Term.

140.The Morral's have not claimed to have interest in "The Stone" in any statements under oath or when asked by email correspondence of their agents.

141.The Town of Keedysville in deposition claimed no interest in the outcome of any litigation over "The Stone" or "The Wagon Road".

142.Justin Holder has deposed the abutting owners of the Stonecrest subdivision along the Eastern Boundary of L659f580 and aforesaid abutting owners of the Stonecrest subdivision and has not found any other parties purporting to have a concrete interest in the Declaratory Judgement action in this Counter-Claim.

WHEREFORE, PLAINTIFF(s), respectfully request this Honorable Court to determine and adjudicate the rights of the Plaintiff(s) and all of the subject property owners with respect to "The Stone" described as "found" by Professional Land Surveyor George Nagel and described on Survey Certificate appended to deed recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249, and reviewing the title chains to aforesaid deed and Exhibits 1 through 16 filed with this claim; and

WHEREFORE Affirmatively declare that "The [Aforesaid] Stone" is the same beginning stone monument described on deed recorded at Liber 434 folio 776 of the Land Records of Washington County, Maryland and the stone monument depicted in the Northwest corner of plat at folio 778 of aforesaid deed; and reviewing the title chains to aforesaid deed and Exhibits 1 through 16 filed with this claim; and

WHEREFORE after reviewing the deeds and chains of title for the subject parties, and ordering all such other and further relief as the nature of this cause requires.

WHEREFORE, PLAINTIFF(s), respectfully request this Honorable Court enter a final Injunction prohibiting Jeffrey Young and subject parties from pleading or stating that "The Stone" described as "found" by Professional Land Surveyor George Nagel and described on Survey Certificate appended to deed recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249 is NOT the same beginning stone monument described on deed recorded at Liber 434 folio 776 of the Land Records of Washington County, Maryland and the stone monument depicted in the Northwest corner of plat at folio 778 of aforesaid deed; and ordering all such other and further relief as the nature of this cause requires.

Respectfully submitted,

Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE REGARDING RESTRICTED INFORMATION

I HEREBY CERTIFY that this document does not contain any restricted information.

Justin K. Holder, *Pro Se*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November, 2021, a copy of the foregoing Counter-Claim - Bill of Complaint *Quia Timet* - for Declaratory Judgement of Law and Injunctive Relief in Equity was served via the MDEC system to :

Roland David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Peter Rogers, Esq.
Talley Kovacs, Esq.
Justin Holder, *Pro Se.*

Justin K. Holder, *Pro Se*

CIRCUIT COURT FOR WASHINGTON COUNTY

CIVIL DIVISION

- - - - - - - - - - - - - -)
JEFFREY YOUNG,)
Plaintiff,)
vs.) Case Number: C-21-CV-20-000371
DEENA HOLDER, et al.,)
Defendants.)
- - - - - - - - - - - - - -)

ZOOM DEPOSITION OF

FREDERIC M. FREDERICK

HAGERSTOWN, MARYLAND

TUESDAY, MARCH 16, 2021

Atkinson-Baker, a Veritext Company
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REPORTED BY: ANNE E. CASTELLOW, CVR-M
FILE NO.: AF01E19

CIRCUIT COURT FOR WASHINGTON COUNTY

CIVIL DIVISION

- - - - - - - - - - - -)
JEFFREY YOUNG,)
Plaintiff,)
vs.) Case Number: C-21-CV-20-000371
DEENA HOLDER, et al.,)
Defendants.)
- - - - - - - - - - - -)

Zoom Deposition of FREDERIC M. FREDERICK, a witness, taken on behalf of the Defendants, in Hagerstown, Maryland, commencing at 9:05 a.m., Tuesday, March 16, 2021, before Anne E. Castellow, CVR-M.

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I N D E X

WITNESS: FREDERIC M. FREDERICK

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E X H I B I T S

(Retained by the Parties)

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Frederick 6	Excerpt from March 22, 1872, deed from Cost to Kreitzer recorded at Liber 6, page 363	67

to hit at the top there's a gate 2; do you see that?
A. Yes.
Q. Does it refresh your recollection that that's the easement that was reserved by the Reeders to cross for some farming purpose I believe it was?
A. I believe so.
Q. All right. I mean, I can show you that deed again if we need to, but I just thought I'd mention it. That's why there's a gate shown on there.
All right. So in this long line that runs along the railroad, now starts at an iron pin, goes 861 feet, it shows the gate and it goes to an iron pin. You've got 847 feet and let's see what is that a call to?
A. Fence post at edge of stream.
Q. Okay. So again, you didn't find the pin from 1965 and you used the fence post instead.
A. Correct.
Q. Was there something that led you to believe that the fence post was right on the property line?
A. Its location seemed accurate to us.
Q. Okay. And you didn't try to resolve it with the

distance that -- since you couldn't find Mause's monument, you didn't try to use this distance and resolve it outside the fence post, set a new pin, perhaps?
A. Correct. And I'd like to see Mause's error of closure. I know ours is going to be accurate. But when you have an error of closure, let's say his misclosed by 15 or 20 feet, that tells us that he has errors in his lengths and perhaps angles.
So without seeing his error of closure, but it would make sense to me that we're going to hold stuff that we find that we believe to meet the intent of the lines of the original deed.
Q. Well, would Mr. -- you just referred to Mr. Mause's error of closure. Is that a computation that you made at the time?
A. Somebody in my office probably did. I don't know what it is. It would take some work to go ahead and reestablish it, and I did not do that work recently.
Q. All right. Would that error of closure computation be in your old file for Wickline?
A. Everything that was in my file was copied

exactly, so if it's in there, perhaps. I'd have to go through and see. I think everybody has copies of everything in there.
That doesn't mean we often will run it through a computer, look at it, and just make mental note that the error of closure was whatever it was, and we don't always put it in the file. But it does have bearing on our decision-making when we make final decisions on boundaries.
Q. Okay. And so I recognize that you don't remember in 2021 what your staff might have done in 1988 for an error of closure, but is it something that you're certain of that Mause's description failed to close, or are you just guessing?
A. I'm not certain of that. It would be interesting to know.
Q. And am I correct that it's not something we could know by simply looking at his drawing?
A. No, no.
Q. Okay.
A. Drawings always look perfect but the inaccuracies are in the mathematical computations.

Q. All right. So the next line on Mause is a North 50 degrees, 18 minutes, 10 inches West, 155.62 feet from the iron pin to the planted stone that we talked about earlier, which was actually his point of beginning.
Coming down to yours, you've got 156.24 feet in a different bearing, and I believe you told me earlier that you didn't find the stone, so you planted two pins here. Can you explain that to me, why are there two pins up there?
A. I honestly don't know.
Q. Okay. Well, between the two pins it looks like 12.2 feet. That doesn't refresh your recollection at all as to why you would set two pins?
A. It does not.
Q. All right.
A. Oh, yes. I see here it looks like we set it because there was a Parcel 3, and when you take the interior lines, do you see the light line there that goes up to that iron pin?
Q. Yes.
A. And it looks like Parcel 3, perhaps it was

12 feet wide. It was a sliver perhaps, and that's why we put one there. And then the other one at the exterior boundary in line with the old fence line.

Q. All right. So am I correct that the fainter line, which is toward the interior of this Wickline property, is the title line, and the bolder line is the one that you drew to incorporate that 12-foot strip in this Parcel 3?

A. Yes.

Q. Okay. If you recall earlier, on the Deed 434, 776, that's the one where the Reeders did not warrant Parcel 3 and 2; does that refresh your recollection as to why that maybe didn't warrant?

A. It may not have been warranted, but it was clearly in their possession.

Q. All right. Now, there's a fence line that's shown here; is that correct?

A. Yes, on the exterior.

Q. And that's the little X's that I see on that line?

A. That is correct.

Q. And you also show the fence departure title line that runs up, I guess, into that B&O Railroad area; do you see that?

A. Yes.

Q. And why didn't the survey just take everything in the fence; do you know?

A. I believe if you look at that Parcel 3, it was a straight line ending at a point and it didn't have an angle right there, so we helped the intent of the deed a straight line, not necessarily following possession, at that point.

Q. But you did show the fence. It actually looks like it splits and cuts across Wickline here as well. That's that fencing there?

A. Yes.

Q. Was that fence an indication of possession?

A. Yes. I don't know if it tied back into something along the railroad, I honestly don't know. But it would indicate possession. I don't know what was on the other side of the fence. I have no recollection of that.

Q. Okay, all right. So that line coming down here, let's start with Mause to keep it consistent. I don't mean to contort your neck here, but that looks like Mause shows a wire fence. I don't think he puts the distance there, but my eye tells me it could be 12 feet. And then his title line is consistent with what you drew on the interior line, except he's got 453.75 feet; is that right?

A. Yes.

Q. And you've got -- you don't give us a distance on that interior, okay. So you really had a different line here than what Mause drew. You've got the one that goes along the wire fence.

A. Yes. I included Parcel 3. Even though it may not have been warranted, it was clearly under our client's possession for many years.

Q. Okay, all right. So the next line goes from -- let's see, let's go up to Mause. In 1965, he terminated that line coming from the planted stone at an iron pin, right?

A. Yes.

Q. And then he takes the line down to another iron pin 523.05 feet, right?

A. Yes.

Q. And you come from an iron pin set. I think it says set. Let me get it -- is that what it says?

A. Yes.

Q. So you set an iron pin. That means you didn't find -- it doesn't mean you didn't find Mause's? Looked for it ahead of time?

A. Correct.

Q. Did the Wicklines tell you that they removed pins?

A. No, never.

Q. Okay. And then you got that line at 497.33 feet to an iron pin found. So you found Mause's pin here, correct?

A. I don't know. I can't swear it was Mause's, but we found a pin there.

Q. Okay. He's got 453 and you've got 497. That's a 40 --

A. Mine's on the exterior. I held the possession line, the fence line to include Parcel 3, so if you look at his, he's on the inside. He did not hold that, and I did.

Q. Okay. So he's got -- I'm sorry. I was looking

IN THE DISTRICT COURT FOR WASHINGTON COUNTY, MARYLAND

CHRISTINE MORRAL AND
SCOTT MORRAL,

Plaintiff,

vs. Case No.: D-112-CV-20-000061

JUSTIN HOLDER,

Defendant.

JUSTIN HOLDER,

Plaintiff,

vs.

CHRISTINE MORRAL AND
SCOTT MORRAL,

Defendant.
______________________________/

OFFICIAL TRANSCRIPT OF PROCEEDINGS
(TRIAL)

July 31, 2020

BEFORE:

HONORABLE MARK D. THOMAS, JUDGE

APPEARANCES:

For the Morral Plaintiffs:

ROLAND D. PEMBROKE, ESQ.

For the Defendant, Mr. Holder:

ADAM GREIVELL, ESQ.

Proceedings Transcribed by: Sheila Orms

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IN THE COURT OF SPECIAL APPEALS OF MARYLAND

JUSTIN HOLDER	*	
Appellant	*	No. 508 September Term, 2022
v.	*	
JEFFREY YOUNG	*	CC CASE NO.: C-21-CV-20-000371
Appellee	*	

* *

OPPOSITION TO APPELLEE's MOTION TO DISMISS - REQUEST FOR HEARING

COMES NOW Appellant, Justin Holder, in Proper Person, and files this Opposition to Appellee's Motion to Dismiss - Request for Hearing, and for reasons states:

OPPOSITION

Appellee Young has filed a Motion to Dismiss an interlocutory appeal (the "MTD"), that has not yet been briefed. The MTD includes multiple facts not in the record and does not include an "Affidavit"[,] "records or papers which it is based"in support,[1] therefore the MTD should be denied. Appellant will narrow his opposition to the merits of the instant MTD and will not address any speculative arguments related to what the Appellee alleges the Appellant brief will bring to issue. The Appellee's MTD does allege a peculiar dispute of material fact that Appellant request the Court resolve in his favor in this preliminary Motion. Once the aforementioned material fact is resolved the MTD should be denied.

---

[1] Rule 8-603 "**(d) Affidavit.** A motion to dismiss or response that is based on facts not contained in the record or papers on file in the appellate court shall be supported by affidavit and accompanied by any part of the record or papers on which it is based." *Md. R. Rev. Ct. App. & Spec. App. 8-603*

NARROW ARGUMENT WITH GROUNDS

Appellee Young asserts the Appeal is frivolous[2] while acknowledging the exception to the "Bedrock Principles"[3] on Final Judgement in the collateral order doctrine. Appellee apparently conceding the Appeal meets 3 of the 4 criteria for a "collateral order" in that:

1) "the order must conclusively determine the disputed question";
2) "the order must resolve an important issue"; and
3) "the issue would be effectively unreviewable if the appeal had to await the entry of a final judgment."

That leaves the narrow factual dispute and Appellee's only argument in support of his MTD being "Specifically, he cannot establish that the resolution of this appeal is completely separate from the merits of the action." MTD p. 3. This narrow factual dispute appears to be the only matter relevant to the instant motion. Without conceding any arguments to the merits of appeal and for the sole purpose of Opposing the MTD Appellant argues that the Appeal is separate from the merits of the case and offers the following facts and evidence in support thereof:

FACTS IN SUPPORT OF OPPOSITION

1. The Appellee's Complaint fails to state a claim related to any roads or public rights the Appellee inserts into the instant MTD at p.1-2. See *Exhibit 1 - 371 Complaint.*
2. Appellee acknowledges Appellant has requested redress in relation to public roads. See MTD at p. 1-2 ¶¶1,3 and 7.
3. "I was told by somebody when I first purchased the property my lane, a/k/a, a road, went through there from my property into Keedysville, whether it was on my property, but that was way before my time, and there was no way to get through it. It was too grown up. I never used it. I never seen anybody use it." See *Exhibit 2 - Deposition of Plaintiff Jeffrey Young 1.12.22.pdf* at 20:17-22.

---

[2] Notable Appellee Young's new counsel entered an appearance on August 16th, 2022. Within 2 days counsel apparently reviewed up to 4669 pages of papers and pleadings in the record. Determined the Appeal was related to a "collateral order", and that 3/4 criteria were met. Then Appellee proceeds to argue on the merits. To use the word frivolous when the instant opposition will present a genuine dispute of fact as to the 4th criteria is reckless indeed!

"There are three categorical exceptions to the general rule limiting appeals only from a final judgment: (1) interlocutory orders that are appealable by statute; (2) orders that are appealable by the common-law collateral order doctrine; and (3) orders that adjudicate completely one of multiple claims in an action and are certified (and certifiable) under Rule 2-602(b), or, alternatively, Rule 8-602(e)(1)(C)." *Salvagno v. Frew,* 388 Md. 605, 615, 881 A.2d 660, 666 (2005).

4. See *Exhibit 2 - Deposition of Plaintiff Jeffrey Young 1.12.22.pdf* at 62:10-25:

> "Q. Okay. The Town of Keedysville, what factual information or personal knowledge do you have that The Town of Keedysville is contesting the use of the wagon road?
>
> A. I have none
>
> Q. Why did you say The Town of Keedysville was contesting the wagon road?
>
> A. Because part of the property that you claim as a wagon road belongs to the Town of Keedysville.
>
> Q. And you just believe they are contesting it?
>
> A. I don't know for sure.
>
> Q. Have you ever talked to Richard Bishop about the wagon road, the Administrator for the Town of Keedysville?
>
> A. Yes, I did. I asked him if he had any land records. I don't think he is there anymore, is he?"

GROUNDS AND AUTHORITIES

5. In accordance with MD. Real Property Code Ann. § 14-619 (a) "A judgment in an action under this subtitle does not affect a claim in the property or part of the property of any person who was not a party to the action, if, at the time the action was commenced: (1) The claim was of record; or (2) The claim was actually known to the plaintiff or would have been reasonably apparent from an inspection of the property."

6. "That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land (*amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978*)." *MD Cont. Declaration of Rights* § 24.

7. MD. Courts and Judicial Proceedings Code Ann. § 3-405 (2020) " (a)(1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party."

8. See also *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957) where the Court affirmed:

> "Section 11 of Art. 31A, (Code 1951), in part, states: "When declaratory relief is

> sought all persons shall be made parties who have or claim any interest which would be affected by the declaration, * * *." This provision has been interpreted by this and other Courts on many occasions. It may be stated as a general rule that ordinarily, in an action for a declaratory judgment, all persons interested in the declaration are necessary parties. *Utica Mutual Insurance Co. v. Hamera*, 292 N.Y.S. 811; *Franklin Life Ins. Co. v. Johnson* (C.C.A. 10th), 157 F.2d 653. It has been held that the presence of necessary parties is jurisdictional, and this is a matter which the parties present cannot waive. *Redick v. Peony Park* (Neb.), 37 N.W.2d 801. The case of *Hine v. Blumenthal* (N.C.), 80 S.E.2d 458, was an action for a declaratory judgment in which the right to close an alley for a period of years was involved. It was held that the owners of the fee in the alley, which was subject to the easements involved in the suit, were necessary parties. See also *Redick v. Peony Park*, supra; *Garnick v. Serewitch* (N.J. Super.), 121 A.2d 423."

ARGUMENT

Appellee filed a Complaint in Washington County Circuit Court requesting a declaratory judgement that he adversely possessed Appellant's property (see *Exhibit 1*) where a road to Keedysville was located. Appellee filed a complaint for Quiet Title without naming an outstanding claim which was known to him and obvious by an inspection of the public records of the ("Road to Keedysville") in his complaint, see MD. Real Property Code Ann. § 14-619 (a). Appellee filed a complaint with mandatory joinder requirements and failed to join the necessary parties to proceed as to the public property described, see *Exhibit 2* and *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957). For the Appellee to have actual knowledge of the claimed right of the public, fail to challenge those rights in the trial court, and then argue that the rights are somehow tied to the merits of his case is ludicrous. Appellee failed to avail himself in the trial court and must be concluded as acknowledging/ accepting the public rights that Appellant has allegedly asserted and requested redress thereof, see MTD p.1-2. The Appellee had actual knowledge the Appellant had requested redress as alleged in the MTD. It is patently unconstitutional for the court to enjoin

Appellant from a public place that the Appellee acknowledged and failed to challenge and/or extinguish in the trial court, see *MD Cont. Declaration of Rights § 24.* The inference that Appellee filed his suit to enjoin a trespass where he had actual knowledge rights of the public existed, in order to chill the Appellant's request for redress is appropriate taking the alleged facts in the light most favorable to non-movant. The Appellee in his own complaint failed to assert any claim related to public property or roads on the property he claims to have adversely possessed and therefore the material fact in dispute should be decided in Appellant's favor. The Appellee's speculative merits of the appeal are not related to the merits of the case, and therefore all 4 criteria of the collateral order doctrine have been met.

CONCLUSION

WHEREFORE Appellee is relying on the speculative argument the appeal is from a "collateral order"; and

WHEREFORE Appellee has conceded that 3 of the 4 criteria for a "collateral order" have been met; and

WHEREFORE this Honorable Court having weighed evidence provided by Appellant in support of the dispute of the material fact relevant to the 4th criteria of a "collateral order" decided the appeal is "separate from the merits"; and

WHEREFORE Appellee placed facts not in the record in his Motion to Dismiss and failed to support those facts with affidavit, records or papers; and

WHEREFORE Appellee has failed to meet his burden to demonstrate this Appeal is improper in his Motion to Dismiss; and

WHEREFORE, the Appellant respectfully request the court deny the Appellee's Motion to Dismiss.

REQUEST FOR HEARING

Appellant requests a hearing on the Appellee's Motion to Dismiss. However, if the Court is persuaded after reading the Motion and the Opposition that the Motion should be denied, Appellant notes that Appellee did not request a hearing and the Appellant consents to denial thereof.

Respectfully submitted,

Justin K. Holder, Pro Se
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

VERIFICATION

My name is Justin K. Holder and I am over 18 years of age and competent to testify. I swear under the penalties of perjury and with personal knowledge that Exhibit 1 attached hereto is a true and accurate copy of the Complaint subject to this appeal and Exhibit 2 is a true and accurate copy of a portion of the transcription of a January 12th, 2022 deposition of Appellee Jeffrey Young in the instant case subject to the instant Appeal.

Justin K. Holder

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 2022, a copy of the foregoing Opposition to Appellee's Motion to Dismiss - Request for Hearing to was served via the MDEC system to :

Victor Cretella, Esq.
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*

Justin K. Holder, *Pro Se*

REQUEST FOR HEARING

Appellant requests a hearing on the Appellee's Motion to Dismiss. However, if the Court is persuaded after reading the Motion and the Opposition that the Motion should be denied, Appellant notes that Appellee did not request a hearing and the Appellant consents to denial thereof.

Respectfully submitted,

Justin K. Holder, Pro Se
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

VERIFICATION

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Robert Kline, Esq.,
Justin Holder, Pro Se

Justin K. Holder, *Pro Se*

IN THE CIRCUIT COURT FOR
WASHINGTON COUNTY, MARYLAND

Jeffrey Young,	)	
Plaintiff,	)	
V.	)	Case No.
Justin Holder, Et Al,	)	C-21-CV-20-000371
Defendants.	)	

Deposition of: Jeffrey Young
January 12, 2022

Held at: 308 West Chapline Street (Via Zoom)
Sharpsburg, Maryland 21782

Jackie Smith, Court Reporter
P.O. Box 143
Text
Boonsboro, Maryland 21713
(301) 326-5199

A P P E A R A N C E S

FOR THE PLAINTIFF:

David Pembroke, Esquire (Via Zoom)

PRO SE DEFENDANT:

Justin Holder

C O N T E N T S

JEFFREY YOUNG: PAGE

Examination by Mr. Holder 4

A. It went up. It did a 90, and went over the bank of the creek.

Q. So it followed the abandoned railroad?

A. No. It followed my property line.

Q. On the north side?

A. Yes, down to the creek.

Q. Okay. And which way did it go to the west, was there another fence there, was there a big rock pile; can you describe what was there to the left?

A. It was a field and large boulders.

Q. And when we were talking earlier back in September, you had said there was a path there. Did you see a path there when you went out?

A. A path, it might have been a deer trail.

Q. You described it as a road. Was that accurate on September 13th?

A. I was told by somebody when I first purchased the property my lane, a/k/a, a road, went through there from my property into Keedysville, whether it was on my property, but that was way before my time, and there was no way to get through it. It was too grown up. I never used it. I never seen anybody use it.

Q. Have you ever had your house appraised by somebody?

A. Yes.

information you have that DNR is contesting this wagon road was gathered from the deposition on September 13th, 2021 in the Benjamin Estes matter where Attorney General Talley Kovacs asked you several questions about what you believe to be the wagon road?

A. Yes.

Q. Okay. And you have no other information, other than that?

A. No.

Q. Okay. The Town of Keedysville, what factual information or personal knowledge do you have that The Town of Keedysville is contesting the use of the wagon road?

A. I have none.

Q. Why did you say The Town of Keedysville was contesting the wagon road?

A. Because part of the property that you claim as a wagon road belongs to the Town of Keedysville.

Q. And you just believe they are contesting it?

A. I don't know for sure.

Q. Have you ever talked to Richard Bishop about the wagon road, the Administrator for the Town of Keedysville?

A. Yes, I did. I asked him if he had any land records. I don't think he is there anymore, is he?

IN THE CIRCUIT COURT FOR

WASHINGTON COUNTY, MARYLAND:

I, Jackie Smith, Court Reporter in and for the aforesaid County and State, do hereby certify that the foregoing is a true and correct transcription of the deposition of Jeffrey Young in the matter of Jeffrey Young vs. Justin Holder, Et Al, Case No. C-21-CV-20-000430 held on the 12th day of January, 2022.

Given under my hand this 19th of February, 2022.

Jackie Smith

Jackie Smith, Court Reporter
P.O. Box 143, Boonsboro, MD 21713
(301) 326-5199

My Commission Expires: March 30, 2024

Gregory Hilton, Cle
Supreme Court of Maryla
7/7/2023 11:56 F

IN THE SUPREME COURT OF MARYLAND

UNCLE EDDIE'S BROKEDOWN)
PALACE, LLC)
Petitioner)
)
v.) SCM-PET-0107-2023
) Appeal from CSA-Reg-1145-20022 &
JEFFREY YOUNG) Cir. Ct. No. C-21-CV-20-000371
)
Respondent)
)

RESPONDENT JEFFREY YOUNG'S OPPOSITION TO PETITION FOR CERTIORARI

Pursuant to Rule 8-303(d), Respondent Jeffrey Young ("Respondent") objects to the Petition for Certiorari filed by Petitioner Uncle Eddie's Brokedown Palace, LLC ("UEBP" or "Petitioner"), stating as follows:

This would be a poor case to grant certiorari. The Supreme Court of Maryland decides a case only if it is "desirable and in the public interest"; that standard may be triggered by the following considerations: novelty, complexity, conflicting precedents, impact or importance and the breadth or extent thereof, and likelihood of recurrence. People's Ins. Couns. Div. v. State Farm Fire & Cas. Co., 442 Md. 55, 58, 109 A.3d 1208, 1210 (2015). When applied here, these factors support denial of certiorari.

This case is decisively unimportant. It primarily concerns Petitioner's right to use an easement from Dogstreet Road to access its property (hereinafter referred to as the "UEBP Property") as an alternative to its existing access from Antietam Drive. According to Petitioner, it has a right to cross the following properties starting at Dogstreet Road (in this order) to get to the UEBP Property: (1) Respondent's driveway, (aka as the Road to Keedy's House), which crosses Parcels 1 and 2 of "Respondent's Property"; (2) Parcel 3 of Respondent's Property (aka as the Wagon Road); (3) the back corner of lots 9 and 10 in Stonecrest Development (also part of the wagon road); (4) a forest conservation easement in Stonecrest Development (also part of the wagon road); and (5) Antietam Drive, which traverses an old railroad crossing.[1]

In support of this claim, Petitioner cites to an easement granted by Aaron Cost to Petitioner's predecessor (David Kretzer) over Cost's "Remaining Land" when Cost subdivided his property and transferred the northern section to David Kretzer in 1872. In that deed, Aaron Cost gave David Kretzer and:

> his heirs and assigns forever the use of a wagon road to and from said land being conveyed, commencing at a stone situated on the West margin of said Washington County Rail Road, at what said Cost called his Rail Road Crossing, and running thence along the Western boundaries of said road, South 30 ¾ degrees East 14 perges to a stone, South 36 degrees East 10 6/10 perches to the lands of Jacob Keedy, thence along the division line between said Aaron Cost and Jacob Keedy until intersect[ing] the road leaving from said Jacob Keedy's house to the County road leading from Keedysville to Martin Eakel's Mill.

Ex. 12 (E.1677). UEBP, as a successor in interest to David Kretzer, claims that he has a right to use this easement to access his property. Since Respondent, who now claims ownership to part of the Wagon Road (and all of the Road to Keedy's House), disputes this right, he initiated an action in the Circuit Court for Washington County.

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[1] Notably, the easement sought by UEBP does not even directly connect to its property; rather it only connects Dogstreet Road to Antietam Drive. Since UEBP already has access to its property from Antietam Drive, the requested easement will not give UEBP anything more than it already has.

After a three day trial, the Circuit Court for Washington County found for Respondent and barred UEBP and its owners (Deena Holder and Justin Holder) from using the easement to cross "Respondent's Property". In support thereof, the Circuit Court made three findings. First, it found that the grant of the easement was fatally flawed because Cost purported to unilaterally grant Kretzer a right to cross Keedy's property over the Road to Keedy's House without the consent of Keedy; since Cost could not grant an easement over a separate landowner's property,[2] the Circuit Court found that the easement was unenforceable and effectively a "road to nowhere". Second it found that the easement had been abandoned by Kretzer and/or his successors; third it found that Respondent had acquired title to part of the Wagon Road by adverse possession. These findings, each of which is independently sufficient to bar UEDP's right to cross Respondent's Property, were affirmed by the Appellate Court of Maryland. [3]

In its Petition for Certiorari, UEBP now challenges only one of the findings made by the Circuit Court. Specifically, UEBP argues that Cost did not need Keedy's consent to grant an easement to Kretzer over the Road to Keedy's House. In support thereof, UEBP argues that Keedy's consent was implied by the fact that the Road to Keedy's House was a PUBLIC as opposed to a private road. Thus, according to UEBP, the easement was not a "road to nowhere" since Kretzer was legally entitled to cross

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[2] This principle is undisputed. E.g. Beins v. Oden, 155 Md. App. 237, 246, 843 A.2d 147, 152 (2004) Buckler v. Davis Sand & Gravel Corp., 221 Md. 532, 538, 158 A.2d 319, 323 (1960).

[3] Deena Holder also claimed a right to use the wagon road to access her adjoining property but did not appeal the Circuit Court's denial of her claim.

Keedy's property on the Road to Keedy's House without any permission from Keedy (or his successors, which include Respondent).

This issue is unimportant because it cannot, as a matter of law, resolve the dispute between the parties in UEBP's favor. Even if this Court holds that Respondent's driveway, i.e. the Road to Keedy's House, is a public road, UEBP would still be precluded from using the remaining segment of the Cost easement, i.e. the Wagon Road, to access its property because the Wagon Road was abandoned and/or its use is barred by Respondent's adverse possession. Since UEBP does not challenge the findings of adverse possession and/or abandonment, and those findings will necessarily be affirmed,[4] UEBP will remain barred from using the Cost easement to access its property even if it prevails on the sole issue presented to this Court, i.e. UEBP's right to use the Road to Keedy's House. Clearly, this appeal is of dubious value when Petitioner cannot obtain anything of value even if it wins.

UEBP's failure to appeal the abandonment and adverse possession findings is not surprising since those findings are unassailable. An easement may be abandoned when the dominant tenement owner thereof ceases use and takes any "act clearly indicative of an intention to abandon the right". USA Cartage Leasing, LLC, 202 Md. App. at 195–96, 32 A.3d at 122–23. Here, there is ample evidence establishing UEBP's abandonment of the easement.

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[4] Saint Luke Inst., Inc. v. Jones, 471 Md. 312, 330, 241 A.3d 886, 896 (2020) (It is well-settled that this Court "ordinarily do[es] not ... consider an issue not raised in a petition for certiorari").

This intent to abandon can be presumed by the fact that UEBP and its predecessors stopped using the wagon road for over 100 years. Cooper v. Sanford Land Co., 224 Md. 263, 266–67, 167 A.2d 602, 604 (1961) (abandonment presumed from long nonuse). Indeed, Ms. Holder, herself, admitted that the wagon road appeared to have been abandoned when she bought her property:

> So, from our end of it right as you come into right before you cross the railroad area, we noticed that there was a space of land that kind of went up in between the railroad bed and Stonecrest. There was a path that was pretty wide that went up that way and it looked like something had been there before, there had been a road there before or some sort of path or and so.

Ex 1 (Deena Holder trial testimony) (emphasis added). This presumption is reinforced by the fact that the wagon road easement is now obsolete. Montgomery Cnty. v. Bhatt, 446 Md. 79, 97, 130 A.3d 424, 434–35 (2016). For as long as anyone can remember, UEBP and its predecessors have accessed their property over Antietam Drive, which is a public road. 9-7-22 Opinion at 5 (finding that UEBP accessed its property over Antietam Drive); Ex. 2 (Deena Holder admitting that she has "driven Antietam Drive a lot . . . to get back to [her] property" although she complained that it was tight). Indeed, it would have made no sense for UEBP and its predecessors to continue accessing the UEBP Property from Dogstreet Road over a precarious wagon trail along a ravine when there was a direct public road to the UEBP Property, i.e. over Antietam Drive. Not surprisingly, the wagon road fell into complete disuse.

There is also evidence indicating UEBP and its predecessors expressly abandoned the use of the wagon road in favor of Antietam Drive. Notably, UEBP's predecessors expressly indicated in a deed that access to UEBP's Property was over Antietam Drive and not over the wagon road. Ex 3 (trial testimony of Deena Holder), Ex. 4 (Plaintiff's Trial Exhibit #15), Furthermore, other recent deeds in Kretzer's chain of title omit any reference to the wagon road. Ex. 5 (Plaintiff's Trial Ex. 16); Ex. 6 (Deena Holder's[5] Trial Ex. 5). The failure to reference an easement in a conveyance and/or signifying a different easement, is strong evidence that a different easement has been abandoned. E:551:9 to 552:1; Cityco Realty Co. v. Philadelphia, B. & W.R. Co., 158 Md. 221, 148 A. 441, 444 (1930).

UEBP is estopped from denying abandonment based upon the fact that the servient tenement holders for the easement have relied upon nonuse of the wagon road to their detriment. United Fin. Corp., 172 Md. 138, 191 A. 81, 84–85. This reliance is evidenced in the deed whereby Respondent acquired his property in 1988. The Young Property is a panhandle lot comprised of 3 parcels of property. Ex. 8 & 9. The vast bulk of this 10+ acre property consists of parcel 1, on which the residence sits. "Parcel 1" does not abut Dogstreet Road. Part of the panhandle sits on Parcel 1. "Parcel 2" is a narrow strip of land towards the end of the panhandle connecting the Young Property to Dogstreet Road. Respondent's driveway, which is allegedly the Road to Keedy's house, sits on the panhandle.

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[5] Deena Holder, who is an owner of UEBP, owns property adjoining UEBP's property. These parcels are both part of the Kretzer chain of title. Ex. 7 (Deena Holder testifying that her property and UEBP's Property were subdivided at one point in time.

"Parcel 3", is a narrow strip of land on the eastern edge of Young's Parcel 1. Parcel 3 adjoins what was formerly Cost's Remaining Lands and is now known as Stonecrest Development; the remnants of the Wagon Road sit in part on parcel 3. At the time Respondent purchased his property, Parcel 3 was in the chain of title to Cost and thus was part of his remaining lands. However, when Respondent acquired his property, the grantor (Wickline) added the wagon road to the conveyance even though it was not in his chain of title. Since then, Jeffrey Young has exclusively exercised dominion and control over Parcel 3 (and the wagon road), including payment of taxes thereon, which ownership was not challenged by UEBP and its predecessors for over 30 years—more than long enough to establish adverse possession. This evidence supports the finding that Respondent and his predecessors relied upon the abandonment of the wagon road to their detriment, i.e. by taking control over and maintaining parcel 3 and the wagon road.

There is also evidence that Cost and his successors relied upon the abandonment of the easement to their detriment. In 2004, Cost's successor, Stonecrest Development, LLC, filed a plat showing that access to the Kretzer property was over Antietam Road and not over the wagon road. Ex. 10. The plat did not even depict the existence of the wagon road. Notably, the plat identified Jeffrey Young as the owner of the land where the wagon road had previously existed (his Parcel 3) and incorporated Respondent's plat. Thus, Stonecrest Development disclaimed that it even had an ownership interest in the Wagon Road even though the wagon road was, at one point in time, part of its chain of title. Clearly this plat establishes of record that the owners of lots 9-12 in the Stonecrest Development would be unfairly prejudiced if the Court were to enforce a driveway immediately behind and/or CROSSING their properties. In other words, since the homeowners who purchased lots in the development relied upon the abandonment reflected in the plat to their detriment, UEBP should be estopped from reviving the Cost easement.

Furthermore, even if the Wagon Road had not been abandoned (or lost by adverse possession), UEBP cannot establish, as a matter of clearly established precedent, that the Road to Keedy's House was a public road. Notably, the 1872 deed from Cost to Kretzer does not describe Respondent's driveway as a public road. It simply describes it as the road from Keedy's house to the county road. There is nothing in that description that distinguishes the Road to Keedy's House as public or private. On the other hand, Cost described the road from Kretzer's house as connecting to a "county" road, implying that this other road was public. Since Cost only identified one road as being public, it is fair to infer that the other road, i.e. the Road to Keedy's House, was private.[6]

The inference that Keedy driveway was a private road is consistent with Maryland law. In order for a public road to be acquired by prescription, "[t]he user relied on to establish [a public] way [by prescription] must also be a user by the public generally; that is, by all who have occasion to use the road. Thus, a road that provides access only to private property cannot be a public road." Layman v. Gnegy, 26 Md. App. 114, 117, 337 A.2d 126, 128 (1975) ("Obviously the use of the road as access to the Coddington Farm by the owners and visitors to that property was not a public use"). In order to become a public roadway, its "termini" must be "public places". Layman v. Gnegy, 26 Md. App. 114, 117, 337 A.2d 126, 128 (1975); see also O'Brecht v. State, 145 Md. 171, 125 A. 539, 541 (1924); Mayor & Town Council of New Mkt. v. Armstrong, 42 Md. App. 227, 237–38, 400 A.2d 425, 431–32 (1979) (238 A single adjacent property owner's use is a far cry from a public user sufficient to warrant public acceptance). Since the 1872 Cost deed describes the road on Keedy's property only as providing access to Keedy's house, it could not be a public road by prescription as a matter of law. On the other hand, the road to Eackles Mill would presumably be a county or public road since the mill was presumably a commercial establishment accessible to the public.

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[6] Of course, even if Cost had described Keedy's driveway as public road, that would not be binding on Keedy and his predecessors, e.g. Respondent, because Cost was not in privity with Keedy. But it is telling that even Cost did believe that Keedy's driveway was a public road.

Of course, there are other ways to create a public road other than by prescription. The County or the Town can acquire property by eminent domain or by acceptance of a dedication. E.g City of Annapolis v. Waterman, 357 Md. 484, 504, 745 A.2d 1000, 1010 (2000). But UEBP proffered no admissible evidence to the Circuit Court that the lane to Keedy's house was ever formally accepted by a governmental entity as a public road or was even dedicated as such. Since UEBP failed to proffer any admissible evidence that the road to Keedy's house was public, UEBP failed to preserve any argument that the Circuit Court's decision was erroneous. In re Adoption/Guardianship Nos. CAA 92-10852, 92-10853 in Cir. Ct. for Prince George's Cnty., 103 Md. App. 1, 32–33, 651 A.2d 891, 907 (1994) ("[i]t is true that the proponent of evidence that has been excluded must proffer what that evidence would have been"); Rule 5-103(a).

The only “evidence” proffered by UEBP in support of its claim that Keedy’s driveway was a public road are a few maps from an 1877 Atlas. Ex. 11. These maps depict a small rectangle on the Cost property at the end of a narrow pair of parallel dashed lines. UEBP suggests that these maps depict a road to Respondent’s house. Again, however, there is nothing in these maps suggesting that the “road” to Keedy’s house was a public road as opposed to a private driveway. There is no legend on the map identifying the dashed lines as a public road. Notably, the dashed lines purportedly depicting Respondent’s driveway is connected to a wider pair of continuous/solid parallel lines that presumably depict what is the county road to Martin Eakle’s Mill. Since the county road is drawn differently than the road to Keedy’s house, we can only presume that there is a different legal significance to those landmarks. In any event, UEBP’s evidence is purely speculative and insufficient to support a finding that Keedy’s driveway was offered to or accepted by a governmental entity as a public road. Thus, Petitioner’s request for certiorari is defective because the arguments raised by it are rank conjecture and legally without merit.

Here, Petitioner has little incentive to prosecute this case effectively. Not only does UEBP already have adequate access to its property over Antietam Drive, but it cannot even achieve the alternative access requested even if it wins this appeal because it did not appeal the abandonment and adverse possession findings affirmed by the Appellate Court of Maryland; thus Petitioner will remain barred from using the wagon road no matter the outcome of this appeal. Furthermore, the Defendants have already exhibited inappropriate litigation tactic in both lower courts. During the appeal to the lower court, one of Petitioner's founders, Deena Holder, was sanctioned by the Appellate Court of Maryland for filing a brief of appellee even though she was clearly seeking to overturn the trial court's decision as appellant. Similarly, the trial Court entered a case management order because Defendants were making a mockery of the procedures before the trial court. In light of the Petitioners' continued bad faith throughout this litigation, this would not make a good case for certiorari. Furthermore, the public has little interest in this case since the findings/holdings made by the lower courts are fully consistent with existing precedent.

WHEREFORE, the petition for certiorari should be denied, and the Court should grant such further relief as justice requires.

Respectfully submitted,

/s/ Victor E. Cretella
Victor E. Cretella III, Esq.
No. 9612170207
The Badaki Law Firm, LLC
111 W. Washington Street
Hagerstown, MD 21740
240-329-4616 (phone)
877-436-9079 (fax)
counsel3@badakilawfirm.com
Attorney for Jeffrey and Cheryl Young

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This opposition contains 3,235 words, INCLUDING the parts of the brief exempted from the word count by Rule 8-503

2. This brief complies with the requirements stated in Rule 8-112.

/s/ Victor E. Cretella______________

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document on July 7, 2023, 2023 by MDEC Robert Kline, 73 N. Main St., Port Deposit, MD 21904 as well as two copies of this brief to each of those persons.

/s/ Victor E. Cretella________________

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0365, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

Taxes Paid $0.00
Todd L. Hershey, Treasurer
AR 08-17-2021

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Washington Cty Cir Crt
IMP FD SURE       $40.00
RECORDING FEE     $20.00
TR TAX STATE       $2.50

CTY REC TAX        $3.80
TOTAL             $66.30
KRT    RZ       12:33 pm
Aug 18, 2021
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Quitclaim Deed

This Quitclaim Deed, made this 22ND day of June, 2021, by **Jennifer Butts Baker (formerly, Jennifer Dorsey Butts; formerly, Jenifer Susan Dorsey)** ("Grantor") and **Justin Holder** ("Grantee"):

Whereas, Grantor acquired a parcel of land by virtue of a Deed dated August 31, 1984, and recorded among the Land Records for Washington County, Maryland at Liber 772, folio 1069; and

Whereas, by virtue of said Deed recorded at Liber 772, folio 1069, Grantor acquired fee simple title to the lands described as Tract No. 1 of Parcel No. 3 in that Deed dated April 14, 1978, and recorded among the Land Records for Washington County, Maryland at Liber 659, folio 580 (said Tract No. 1 of Parcel No. 3 of said Deed recorded at Liber 659, folio 580 is hereinafter referred to as "**Grantor's Lands**"); and

Whereas, on November 3, 2020, Grantor quitclaimed to Grantee Justin Holder of Washington County, Maryland all rights, title and interest in and to such portions of the aforesaid Grantor's Lands that remained in Grantor's title, by Deed recorded at Liber 6414 Folio 219 among the Land Records of Washington County ; and

Whereas, Samuel Cost of Washington County Maryland, Predecessor in Title to Grantor, by Deed dated October 30, 1866 and recorded at Liber I.N. 18, folio 488 among the Land Records of Washington County, granted to the Washington County Railroad Company, a *quasi*-public corporation incorporated by chapter 334 of the Acts of Assembly of 1864, some rights and interest "through the land of the said Samuel Cost," as more particularly described in said Deed ; and

Whereas, Grantor is heir to both Samuel Cost of Washington County, Maryland and his son, Aaron Cost (also a predecessor in title to the Grantor), and, therefore, to the extent that any

VALID ONLY WITH IMPRESSED SEAL
I HEREBY CERTIFY, that this is a true copy of one of the records of Washington County, Maryland, having been recorded in Land Records Liber 6729 Folio 365-372 in the Office of the Clerk of the Circuit Court. In Testimony whereof I hereunto subscribe my name and affix the Seal of the Circuit Court For Washington County, Maryland.

KEVIN R. TUCKER, CLERK

06/08/2022
DATE ISSUED

JBB

prior land instrument failed to convey all of Samuel Cost's or Aaron Cost's Fee Simple or other remaining right, title, interest, and estate in and to any rights in any lands lying within the bounds of the former Washington County Railroad Company Right-of-Way, title to any of said lands remains in the Grantor; and

Whereas, the Deed recorded at Liber I.N. 18, folio 488 of the Land Records of Washington County expressly describes the metes and bounds of the grant therein of rights **through the land** of Samuel Cost as beginning "at a point on the center line of the road bed of the Washington County Rail Road Company **as the same would be when built**"... "and extending from said point on the center line of said road bed **as the same would be as aforesaid**," *i.e.*, "**when built**;" and

Whereas, **to the extent that** the extent and definition of the rights granted to the Washington County Rail Road Company were dependent upon the "center line of the road bed of the Washington County Rail Road Company as the same would be **when built**," **and to the extent that** the rights were granted by Samuel Cost to the Washington County Rail Road Company as a *quasi*-public company incorporated by Chapter 334 of the Acts of Assembly of Assembly of 1864, which said company was granted, by the said Act, only a **limited right** "**to construct a road** or roads from Hagerstown to any point on the line of the Baltimore and Ohio Railroad east of Harper's Ferry ... **not exceeding sixty-six feet wide**," and "after the purchase and condemnation thereof ... **may enter upon and use** and excavate any land that may be wanted for the **site of the said railroad**," then, the rights acquired by the said Washington County Rail Road Company were **limited to the purpose of operating a Railroad**; and

Whereas, CSX Transportation was Successor in Interest to Baltimore and Ohio Railroad, and Baltimore and Ohio Railroad was Successor in Interest to Washington County Rail Road Company; and

Whereas, Baltimore and Ohio Railroad as Successor in Interest to Washington County Railroad Company, expressed its decisive intent and objective manifestation of the same in Interstate Commerce Commission Docket **AB 19 SUB 20** on March 18th, 1975, and in all related proceedings following thereafter, **ABANDONING** the **RIGHT OF WAY** commonly known as the "Washington County Branch of the Baltimore and Ohio Railroad;" and

Whereas, Baltimore and Ohio Railroad as Successor in Interest to Washington County Rail Road Company, did notoriously and overtly remove all tracks, rails and bridges within the

JBB

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0367, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

Metes and Bounds of aforesaid **ABANDONED RAILROAD RIGHT OF WAY** as it crossed **THROUGH THE LANDS of Samuel Cost**; and

Whereas, the Roadbed of aforesaid Washington County Rail Road Company, is and was, as of the time the tracks and bridges were removed, **NO LONGER BUILT** and the **ABANDONED RAILROAD RIGHT OF WAY** as it crossed **THROUGH THE LANDS of Samuel Cost** is and was no longer in service as a railroad; and

Whereas, "[t]he general rule is that the right and title to a mere easement in land acquired by a *quasi*-public corporation, either by purchase, condemnation or prescription, for a public purpose is dependent upon the continued use of the property for that purpose, and when such public use is abandoned the right to hold the land ceases, and the property reverts to its original owner or his successors in title." *Maryland & Pa. R. Co. v. Mercantile-Safe Deposit & Trust Co.*, 224 Md. 34 (1960); and

Whereas, to the extent that Samuel Cost, Aaron Cost, or their heirs, retained any right, title, interest, or estate in and to any of the lands within the metes and bounds of the grant of the railroad right of way by Samuel Cost by the Deed recorded at Liber I.N. 18, folio 488, and to the extent that said rights did not convey unto the Grantor solely by virtue of that Deed recorded at Liber 772, folio 1069, and to the further extent that the Grantor has inherited any or all of said rights, title, interest or estate in and to the said lands, the Grantor, heir to Samuel Cost and Aaron Cost, desires to quitclaim unto the Grantee any and all of her remaining rights, title and interest, estate and appurtenances thereto, in and to any and all of the lands as contained in the Metes and Bounds description of Indenture dated September 10th, 1832 to Samuel Cost of Washington County, Maryland by David Hess of Montgomery County, Ohio, *et al.*, recorded among Land Records of Washington County at Liber N. N., folio 520, to include specifically, and without limitation, any rights, title, interest and estate in any portion of land through the said lands of Samuel Cost, commonly known as the "Abandoned Railroad". Said lands and all rights, title, interest and estate in said lands as described in this paragraph shall be referred to hereafter as the "Lands Remaining in Cost."

Now Therefore Witnesseth: That, for and in consideration of the sum of **$500.00**, the receipt and sufficiency of which by the Grantor is hereby acknowledged, said Grantor does hereby grant, convey, release, assign and quitclaim to the Grantee, his personal representatives, heirs and assigns, all of the Grantor's rights, title, interest, and estate in any and all of the Lands Remaining in Cost as the title to the same shall remain in the Grantor as of the date of this

JBB

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0368, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

Quitclaim Deed, and all rights and appurtenances thereto, including but not limited to: (a) such of those lands as are more specifically described in that certain DESCRIPTION OF REMAINING LANDS OF PARCEL No. 3, Liber 659, folio 580 dated August 7, 2020, prepared by George E. Nagel, Professional Land Surveyor of Fox & Associates, Inc., a true and accurate copy of which is annexed hereto and incorporated herein by reference; (b) the Lands Remaining in Cost, and (c) any and all of Grantor's Lands lying clear of any previous conveyance of Grantor out of the aforesaid Grantor's Lands.

Together With and Subject To all of the covenants, easements, rights of way, appurtenances, advantages and restrictions of record applicable thereto, including, specifically that Right of Way that was granted by that deed dated March 22, 1872 and recorded in W.McK.K. 6, folio 363 among the land records for Washington County, more specifically described therein as a Right of Way granted "unto the said David Kretzer his heirs and assigns forever the use of a wagon road to and from said land being conveyed, commencing at a stone situated on the West margin of the said Washington County Rail Road, at what said Cost called his Rail Road Crossing, and running thence along the Western boundaries of said road, South 30 3/4 degrees East 14 perches to a stone, South 36 degrees East 10 6/10 perches to the lands of Jacob Keedy, thence along the division line between said Aaron Cost and Jacob Keedy until — intersect the road leaving from said Jacob Keedy's house to the County road leading from Keedysville to Martin Eakle's Mill."

In Witness Whereof, the Grantor has executed this Quitclaim Deed on the date, month and year heretofore written.

Jennifer Butts Baker 6/22/2021
Grantor, Jennifer Butts Baker
Grantor, Jennifer Dorsey Butts
Grantor, Jennifer Susan Dorsey

Witness 6/22/2021

JBB

STATE OF MARYLAND COUNTY OF WASHINGTON

This document was acknowledged before me on June 22nd, 2021 by **Jennifer Susan Dorsey Butts Baker** (Grantor) to be her act.

Todd Webster (SEAL)
Signature of Notary

TODD A. WEBSTER
NOTARY PUBLIC - MARYLAND
WASHINGTON COUNTY
MY COMMISSION EXPIRES
ON: 10-01-2024

My Commission Expires: 10-01.2024

I hereby certify that the foregoing instrument was prepared by or under the supervision of the undersigned Adam D. Greivell, Esq., an attorney duly admitted to practice before the Court of Appeals of Maryland to the instrument.

Adam D. Greivell, Esq.

Mail to:

Justin Holder
308 West Chapline Street
Sharpsburg, Maryland 21782

JBB

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0369, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0370, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

FOX
& ASSOCIATES INC.
Est. 1966

ENGINEERS
SURVEYORS
PLANNERS
LANDSCAPE ARCHITECTS

981 Mt. Aetna Road
Hagerstown, MD 21740
Phone: 301-733-8503
Fax: 301-733-1853
Email: foxhagerstown@foxassociatesinc.com

August 7, 2020

DESCRIPTION OF REMAINING LANDS OF PARCEL No. 3

Liber 659, folio 580

Situate southeast of Stonecrest Circle and northeast of Dogstreet Road in District Number 19, Washington County, Maryland.

Beginning at a stone found, said stone being at the beginning of the 12th or South 24° West 27 ½ perch line of Parcel No. 4 in a deed from J. Albert Shank and Frances S. Harp, Attorneys in fact for Sarah E. Shank, and Sarah E. Shank to Roy G. Reeder and Mae M. Reeder, dated April 30, 1945 and recorded in Liber 230 at folio 139 among the Land Records of Washington County, Maryland, thence with the 12th or South 24° West 27 ½ perch line

1)	South 24° 17' 24" West	451.29 feet to the beginning of the 13th or South 71° 45' West 31 7/10 perch line of Parcel No. 4 in the aforesaid deed, thence with a portion of said 13th line
2)	South 71° 38' 43" West	23.68 feet to a rear corner of Lot 14 in the Stonecrest subdivision, said point being designated as "SBC FD" on Sheet 1 of 4 of a plat entitled "Final Plat - Stonecrest" and recorded as Plat No. 8292 -8295 among the Land Records of Washington County, Maryland, thence with the rear boundaries of Lots 10 – 14, as shown on Sheet 1 of 4 and Sheet 2 of 4 of said plat
3)	North 24° 17' 24" East	484.83 feet to a mag nail found set in a large rock along the southwestern boundary of a parcel of land convey from CSX Transportation, Inc. to the State of Maryland, to the use of the Department of Natural Resources, by deed dated September 6, 1991 and recorded in Liber 1015 at folio 796 among the Land Records of Washington County, Maryland, thence with said southwestern boundary the following two (2) courses;
4)	South 42° 40' 53" East	25.71 feet, thence
5)	South 23° 53' 59" East	2.57 feet to point along the 11th or South 79° West 7 9/10 perch line of Parcel No. 4, thence with a portion of said 11th line
6)	South 79° 17' 24" West	9.96 feet to the Point of Beginning.

Containing 8,286 square feet or 0.19 acres of land more or less.

JBB

WASHINGTON COUNTY CIRCUIT COURT (Land Records) KRT 6729, p. 0371, MSA_CE18_6681. Date available 08/19/2021. Printed 06/08/2022.

Remainder of Parcel No. 3
Liber 659, folio 580
Page 2 of 2

Being part of Parcel No. 3 described in a deed from Vincent R. Groh, Personal Representative of the Estate of Charles Dudley Pry to Leonard Leroy Dorsey and Susan P. Dorsey, Guardian of the property of Jennifer Susan Dorsey, dated April 14, 1978 and recorded in Liber 659 at folio 580 among the Land Records of Washington County, Maryland.

The bearings described above are in the datum of the Maryland Coordinate System NAD 83(2011).

This description was either personally prepared by me or I was in responsible charge of the preparation and the surveying work reflected in it, all in compliance with the requirements set forth in COMAR 09.13.06.12 in effect at the time of this work.

GEORGE EDWARD NAGEL
21052

George E. Nagel
Professional Land Surveyor
Maryland Registration No. 21052
Expiration/Renewal Date: August 24, 2020

JBB

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☐ County: Washington

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments	(☐ Check Box if addendum Intake Form is Attached.)			
	☒ Deed	☐ Mortgage	☐ Other ________	☐ Other ________
	☐ Deed of Trust	☐ Lease		
2 Conveyance Type Check Box	☐ Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*
3 Tax Exemptions (if applicable) Cite or Explain Authority	**Recordation**			
	State Transfer			
	County Transfer			

4 Consideration and Tax Calculations

Consideration Amount	
Purchase Price/Consideration	$ 500.00
Any New Mortgage	$ 0.00
Balance of Existing Mortgage	$ 0.00
Other:	$
Other:	$
Full Cash Value:	$ 500.00

Finance Office Use Only **Transfer and Recordation Tax Consideration**		
Transfer Tax Consideration		$
X ( ) %	=	$
Less Exemption Amount	−	$
Total Transfer Tax	=	$
Recordation Tax Consideration		$
X ( ) per $500	=	$
TOTAL DUE		$

5 Fees

Amount of Fees	**Doc. 1**	**Doc. 2**	
Recording Charge	$	$	Agent:
Surcharge	$	$	
State Recordation Tax	$	$	Tax Bill:
State Transfer Tax	$	$	C.B. Credit:
County Transfer Tax	$	$	
Other	$	$	Ag. Tax/Other:
Other	$	$	

6 Description of Property
SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	**Property Tax ID No. (1)**	**Grantor Liber/Folio**	**Map**	**Parcel No.**	**Var. LOG**
19	009270	L N.N. F520	0073	288	☐ (5)

Subdivision Name	**Lot (3a)**	**Block (3b)**	**Sect/AR (3c)**	**Plat Ref.**	**SqFt/Acreage (4)**
					8286sf +/-

Location/Address of Property Being Conveyed (2)
Abandoned Railroad

Other Property Identifiers (if applicable) | **Water Meter Account No.**

Residential ☑ **or Non-Residential** | **Fee Simple** ☑ **or Ground Rent** **Amount:**

Partial Conveyance? ☐ **Yes** **No** | Description/Amt. of SqFt/Acreage Transferred: 8286 sf

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	**Doc. 2 – Grantor(s) Name(s)**
Jennifer Butts Baker (Formerly Jennifer Dorsey Butts)	
(Also Formerly Jennifer Susan Dorsey) Heir of Samuel Cost	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	**Doc. 2 – Grantee(s) Name(s)**
Justin Holder	

New Owner's (Grantee) Mailing Address
308 W. Chapline St., Sharpsburg, MD 21782

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	**Doc. 2 – Additional Names to be Indexed (Optional)**

10 Contact/Mail Information

Instrument Submitted By or Contact Person
Name: Adam D. Greivell
Firm Greivell & Garrott Johnson, LLC
Address: 5 Cornell Ave., Hagerstown, MD 21742
Phone: (240) 310-9150

☐ Return to Contact Person
☐ Hold for Pickup
☑ Return Address Provided

11 IMPORTANT: ***BOTH*** **THE ORIGINAL DEED** ***AND*** **A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER**

Assessment Information
☐ Yes ☐ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☐ No Does transfer include personal property? If yes, identify: ____________
☐ Yes ☐ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification
Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20
Land		
Buildings		
Total		

Geo.	Map	Sub	Block
Zoning	Grid	Plat	Lot
Use	Parcel	Section	Occ. Cd.
Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

POSTGE	.50
IMPRFE	2.00
DEED	14.00
RECTAX	3.30
TOTL	19.80
CHCK	24.30
B 4530 CNG	4.50

01993 8-24 P4:04

Received for Record
at
Recorded at Liber

THIS QUITCLAIM DEED, made this 16th day of August, 1993, by **JENNIFER D. BUTTS** (hereinafter referred to as "Grantor"), and **JEFFREY L. YOUNG**, (hereinafter referred to as "Grantee").

NOW THEREFORE, WITNESSETH: That for and in consideration of the sum of **THREE HUNDRED DOLLARS ($300.00)**, the receipt and the sufficiency of which by the Grantor is hereby acknowledged, said Grantor does hereby grant, convey, release, assign and quitclaim to the Grantee, his personal representatives, heirs and assigns, all of the Grantor's right, title, interest and estate in the lot of ground described as "AREA OF DEED OVERLAP" containing 0.11 acres of land and shown on a plat entitled "Property Line Survey For Harry Wickline" recorded at plat folio 2499 among the Plat Records for Washington County, Maryland; said parcel fronting 18 feet on Dog Street Road and running a uniform width of 18 feet in a northeastwardly direction from said road a distance of 274.76 feet.

BEING a portion of the real estate conveyed from Samuel C. Strite, Guardian of the property and estate of Jennifer Dorsey Butts, nee Jennifer Susan Dorsey, to Jennifer D. Butts, by deed dated August 31, 1984 and recorded at Liber 772, folio 1069, among the Land Records for Washington County, Maryland.

TOGETHER WITH all and singular, the buildings and improvements thereon, and all the rights, ways, waters, easements, privileges and appurtenances thereunto belonging or in anywise appertaining.

This property is conveyed together with and subject to all applicable covenants, conditions, restrictions, easements, limitations, rights-of-way, streets, alleys, reservations and easements of record.

WITNESS the Hand and Seal of the Grantor the day and year first above written.

Witness:

Jennifer D. Butts (SEAL)
Jennifer D. Butts

VALID ONLY WITH IMPRESSED SEAL

I HEREBY CERTIFY, that this is a true copy of one of the records of Washington County, Maryland, having been recorded in Land Records 1108/790-792 in the Office of the Clerk of the Circuit Court. In Testimony whereof I hereunto subscribe my name and affix the Seal of the Circuit Court For Washington County, Maryland.

KEVIN R. TUCKER, CLERK

6-14-2022
DATE ISSUED

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 1108, p. 0790, MSA_CE18_1058. Date available 09/28/2005. Printed 06/14/2022.

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY that on this 10th day of August, 1993, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Jennifer D. Butts who signed the aforegoing Deed and acknowledged the same to be her voluntary act and deed; and further certified, under penalties of perjury that the actual consideration paid for the aforegoing conveyance is equal to the sum of Three Hundred Dollars ($300.00).

WITNESS my Hand and Official Notarial Seal.

Karen M. Phealrus
Notary Public

My Commission Expires: 6/1/94

RELEASE AND CONSENT OF TRUSTEES

~~JOHN C. KELLY, Vice President, and RONALD L. FREY, Senior Vice President, as trustees under a deed of trust from Grantor dated December 22, 1988, and recorded among the Land Records for Washington County, Maryland at Liber 900, folio 402, hereby join in the aforesaid Quitclaim Deed for the purpose of expressing consent to the transfer of the above-described real property for the purpose of releasing said real property from the lien of the aforesaid deed of trust.~~

Deleted

WITNESS:

_____________________________ _____________________(SEAL)
John C. Kelly, Vice President

_____________________________ _____________________(SEAL)
Ronald L. Frey, Senior
Vice President

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 1108, p. 0791, MSA_CE18_1058. Date available 09/28/2005. Printed 06/14/2022.

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

~~I HEREBY CERTIFY that on this day of August, 1993, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared John C. Kelly, Vice President and Ronald L. Frey, Senior Vice President of Farmers & Merchants Bank of Hagerstown who did acknowledge the aforegoing deed to be the act of said corporation and that the consideration recited therein is true and correct, and at the same time they made oath in due form of law that they are the Vice President and Senior Vice President of said corporation and duly authorized to make this acknowledgement on its behalf, and they further certified that the said conveyance is not part of a transaction where there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the said corporation. They further acknowledged the same to be their voluntary act and deed; and further certified, under the penalties of perjury that the actual consideration paid for the aforegoing conveyance is equal to NO MONETARY CONSIDERATION~~

WITNESS my Hand and Official Notarial Seal.

My Commission Expires: ______________________
Notary Public

THIS IS TO CERTIFY that the foregoing instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

MAILED SEP 1 1993

Lisa Shank Poole
Lisa Shank Poole, Esquire

Mail to: [illegible] Young
[illegible]
[illegible], Md

TAXES WAIV
AUG 2 4 1993
TODD L. HERSHEY, TREASURER

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Washington County
By Allen Black Date 8-24-93

AGRICULTURE TAX $ 0
ACREAGE —
CLERK Allen Black

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 1108, p. 0792, MSA_CE18_1058. Date available 09/28/2005. Printed 06/14/2022.

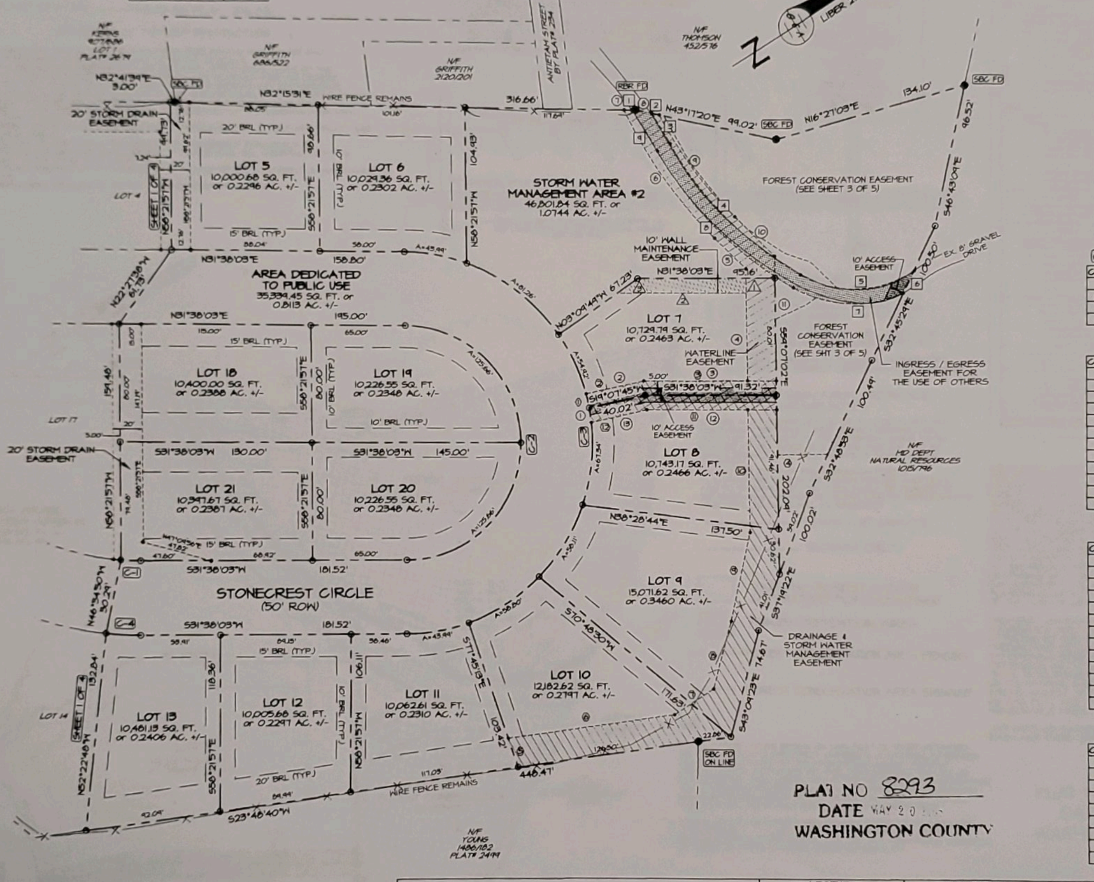
WALL MAINTENANCE EASEMENT

LINE	BEARING	DIST.
1	S59°07'02"E	10.00'
2	S31°38'08"W	84.68'
3	N03°04'49"W	17.52'

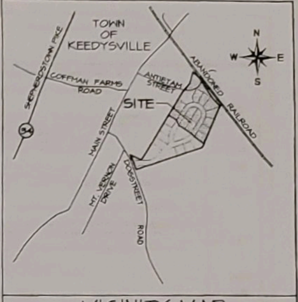
AREA TABLE

TOTAL AREA OF LOTS .... 140,551.43 SQ. FT. or 3.2268 AC. +/-
STONECREST CIRCLE DED. .... 35,339.45 SQ. FT. or 0.8113 AC. +/-
SWM AREA #2 .... 46,801.84 SQ. FT. or 1.0744 AC. +/-

SHEET 2 AREA .... 222,698.12 SQ. FT. or 5.1125 AC. +/-


N/F KERNS LOT 1 PLAT# 2674
N82°41'39"E 3.00'
20' STORM DRAIN EASEMENT
N/F GRIFFITH 686/522
N/F GRIFFITH 2120/201
ANTIETAM STREET BY PLAT# 234
N/F THOMSON 452/576
LIBER 2143, FOLIO 587
N
N82°15'31"E
WIRE FENCE REMAINS
316.66'
N43°17'20"E 49.02'
N16°27'09"E
134.10'
S46°43'04"E
98.52'
SBC FD
LOT 5 10,000.88 SQ. FT. or 0.2296 AC. +/-
LOT 6 10,029.36 SQ. FT. or 0.2302 AC. +/-
20' BRL (TYP.)
15' BRL (TYP.)
10' BRL (TYP.)
N58°21'57"W
S58°21'57"E
104.93'
STORM WATER MANAGEMENT AREA #2 46,801.84 SQ. FT. or 1.0744 AC. +/-
FOREST CONSERVATION EASEMENT (SEE SHEET 3 OF 5)
LOT 4
SHEET 1 OF 4
N31°38'03"E
158.80'
AREA DEDICATED TO PUBLIC USE 35,339.45 SQ. FT. or 0.8113 AC. +/-
N22°27'26"W 61.73'
10' WALL MAINTENANCE EASEMENT
N03°04'49"W 67.23'
N31°38'03"E
95.36'
10' ACCESS EASEMENT
EX. 6' GRAVEL DRIVE
LOT 7 10,729.79 SQ. FT. or 0.2463 AC. +/-
WATERLINE EASEMENT
FOREST CONSERVATION EASEMENT (SEE SHT 3 OF 5)
INGRESS / EGRESS EASEMENT FOR THE USE OF OTHERS
S32°45'24"E
100.30'
100.49'
S59°07'02"E
N31°38'03"E
15.00'
115.00'
LOT 18 10,400.00 SQ. FT. or 0.2388 AC. +/-
LOT 19 10,226.55 SQ. FT. or 0.2348 AC. +/-
S58°21'57"E
LOT 17
20' STORM DRAIN EASEMENT
S31°38'03"W 130.00'
S31°38'03"W 145.00'
LOT 8 10,743.17 SQ. FT. or 0.2466 AC. +/-
N/F MD DEPT NATURAL RESOURCES 1015/746
S32°48'53"E
LOT 21 10,347.67 SQ. FT. or 0.2387 AC. +/-
LOT 20 10,226.55 SQ. FT. or 0.2348 AC. +/-
N38°28'44"E
137.50'
LOT 9 15,071.62 SQ. FT. or 0.3460 AC. +/-
S37°14'22"E
100.02'
S31°38'03"W
181.52'
N46°34'50"W 30.24'
STONECREST CIRCLE (50' ROW)
S71°45'19"E
S70°45'30"W
LOT 10 12,182.62 SQ. FT. or 0.2797 AC. +/-
DRAINAGE & STORM WATER MANAGEMENT EASEMENT
S43°04'23"E 74.67'
SBC FD ON LINE
LOT 14
N52°22'48"W 132.84'
LOT 13 10,481.13 SQ. FT. or 0.2406 AC. +/-
LOT 12 10,005.68 SQ. FT. or 0.2297 AC. +/-
LOT 11 10,062.61 SQ. FT. or 0.2310 AC. +/-
N58°21'57"W
S58°21'57"E
117.05'
WIRE FENCE REMAINS
446.47'
S23°48'40"W
N/F YOUNG 1486/182 PLAT# 2499

PLAT NO 8293
DATE MAY 2 0
WASHINGTON COUNTY


TOWN OF KEEDYSVILLE
SHEPHERDSTOWN PIKE
34
COFFMAN FARMS ROAD
ANTIETAM STREET
SITE
MAIN STREET
MT. VERNON DRIVE
DOGSTREET ROAD
ABANDONED RAILROAD
N
E
S
W

VICINITY MAP
TAX MAP#: 73 PARCEL#: 288
1" = 800'

C-# STREET CURVE TABLE

CURVE	RADIUS	ARC	DELTA	TANG.	CHD. BRG.	CHORD
C-1	175.00'	13.49'	4°25'02"	6.75'	S33°50'34"W	13.49'
C-2	80.00'	251.33'	180°00'00"	∞	S58°21'57"E	160.00'
C-3	130.00'	408.41'	180°00'00"	∞	S58°21'57"E	260.00'
C-4	225.00'	23.51'	5°59'09"	11.76'	S34°37'38"W	23.50'

⊙ ▨ DRAINAGE & STORM WATER MANAGEMENT EASEMENT

CURVE	RADIUS	ARC	DELTA	TANG.	CHD. BRG.	CHORD
1	130.00'	20.03'	8°44'42"	10.04'	N68°51'04"W	20.01'
2	—	—	—	—	N19°07'45"E	41.16'
3	—	—	—	—	N31°38'03"E	92.29'
4	—	—	—	—	S59°06'55"E	132.09'
5	—	—	—	—	N77°45'13"W	20.41'
6	—	—	—	—	N23°48'40"E	116.68'
7	—	—	—	—	N01°09'58"W	32.39'
8	—	—	—	—	N43°09'23"W	47.60'
9	—	—	—	—	N45°50'54"W	61.76'
10	—	—	—	—	N59°06'55"W	83.83'
11	—	—	—	—	S31°38'03"W	70.36'
12	—	—	—	—	S19°07'45"W	39.64'

⊙ ▨ WATERLINE EASEMENT

CURVE	RADIUS	ARC	DELTA	TANG.	CHD. BRG.	CHORD
1	130.00'	20.03'	8°44'42"	10.04'	N68°51'04"W	20.01'
2	—	—	—	—	N19°07'45"E	41.16'
3	—	—	—	—	N31°38'03"E	72.28'
4	—	—	—	—	N59°07'02"W	76.39'
5	—	—	—	—	S75°52'58"W	30.02'
6	310.00'	107.21'	19°48'54"	54.15'	S85°47'25"W	106.68'
7	—	—	—	—	N82°15'31"E	7.77'
8	—	—	—	—	N43°17'20"E	16.88'
9	290.00'	86.51'	17°05'34"	43.58'	N84°25'44"E	86.19'
10	—	—	—	—	N75°52'58"E	38.30'
11	—	—	—	—	S59°07'02"E	104.94'
12	—	—	—	—	S31°38'03"W	90.36'
13	—	—	—	—	S19°07'45"W	39.64'

▨ INGRESS/EGRESS EASEMENT

CURVE	RADIUS	ARC	DELTA	TANG.	CHD. BRG.	CHORD
1	—	—	—	—	N82°15'31"E	2.59'
2	—	—	—	—	N43°17'20"E	11.53'
3	335.89'	23.98'	4°05'27"	12.00'	N84°25'15"E	23.98'
4	242.07'	127.81'	30°15'08"	65.43'	N76°20'25"E	126.33'
5	76.33'	82.63'	62°01'21"	45.88'	N30°12'11"E	78.65'
6	—	—	—	—	S32°45'24"E	16.69'
7	86.33'	79.23'	52°34'56"	42.65'	S84°55'23"W	76.48'
8	252.07'	133.09'	30°15'08"	68.14'	S76°20'25"W	131.55'
9	325.89'	33.03'	5°48'27"	16.53'	S88°33'45"W	33.02'

SHEET 2 OF 4

NOTES:

1. ZONED "TR" TOWN RESIDENTIAL
2. NO PERMANENT STRUCTURES, FENCES, TREES OR SHRUBS ARE PERMITTED WITHIN WATER, STORM DRAIN, DRAINAGE, STORM WATER MANAGEMENT, AND ACCESS EASEMENTS. A NOTE IS TO BE PLACED ON ANY DEED OF CONVEYANCE.

LEGEND:

⊙ = T-BAR #204-B SET UNLESS OTHERWISE NOTED.

MINIMUM BUILDING RESTRICTION LINES: (BRL)

FRONT: 15'
SIDE: 10'
REAR: 20'

REVISIONS:

SURVEYORS SEAL:

RICHARD EDWARD MCCLELLAN No. 585

5-9-05

FINAL PLAT
STONECREST
SWM #2 & LOTS 5-13, 18-21
situate on Dogstreet Road
Town of Keedysville
Election District # 19
Washington County, Maryland

SCALE: 1"= 50'   AUGUST 2004

50 37.5 25 12.5 0 25 50 100

Gary Castle & Associates
Land Surveyors
300 W. Patrick Street Frederick, Maryland 21701
Phone: (301)668-0505 ~ Fax: (301)668-0507

RECORDED: ________ WASHINGTON CO. PLAT NO: ________ JOB NO: 2011

P107435 MSASSU 1255-7145-2

VALID ONLY WITH IMPRESSED SEAL

I HEREBY CERTIFY, that this is a true copy of one of the records of Washington County, Maryland, having been recorded in Land Records Plat #8293 In the Office of the Clerk of the Circuit Court. In Testimony whereof I hereunto subscribe my name and affix the Seal of the Circuit Court For Washington County, Maryland.

KEVIN R. TUCKER, CLERK

6/8/2022
DATE ISSUED